

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS (DALLAS)

IN RE: . Case No. 22-31641-MVL-7
.
.
GOODMAN NETWORKS, INC., . U.S. Bankruptcy Court
.
1100 Commerce Street
.
Dallas, Texas 75242
.
Debtor. . Monday, November 28, 2022
.
1:35 P.M.
.

TRANSCRIPT OF EXPEDITED HEARING ON
MOTION TO QUASH OR, ALTERNATIVELY, TO MODIFY THIRD-PARTY
DEPOSITION SUBPOENA FILED BY INTERESTED PARTY JAMES GOODMAN
(83); AND MOTION TO QUASH ARRIS DISCOVERY FILED BY ALLEGED
DEBTOR GOODMAN NETWORKS, INC. (85)

**BEFORE THE HONORABLE MICHELLE V. LARSON
UNITED STATES BANKRUPTCY COURT JUDGE**

APPEARANCES ON NEXT PAGE.

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1 (Proceedings commenced at 1:35 p.m.)

2 THE CLERK: All rise.

3 The United States Bankruptcy Court for the Northern
4 District of Texas Dallas Division is now in session; the
5 Honorable Michelle Larson presiding.

6 THE COURT: Please be seated.

7 Good afternoon, everyone.

8 We are here on our 1:30 docket. We have one case on
9 the docket this afternoon, and that's Case Number 22-31641,
10 Goodman Networks, Inc.

11 I will take appearances for the record, and I'll
12 start with those in the courtroom.

13 MR. KLEINSASSER: Good afternoon, Your Honor.
14 Matthias Kleinsasser with Winstead on behalf of non-party,
15 James Goodman. Just as an initial point, thanks for
16 accommodating the expedited setting.

17 THE COURT: Thank you very much. You're welcome.

18 MR. PARHAM: Yeah. Good morning, Your Honor. Dave
19 Parham for the alleged debtor of Akerman. And, again, thank
20 you also for having us this afternoon.

21 THE COURT: I appreciate that.

22 All righty. I'll now take appearances on WebEx.

23 MS. SIXKILLER: Your Honor, Laura Sixkiller of DLA
24 Piper and Ryan Sullivan of DLA Piper for ARRIS Solutions, Inc.

25 THE COURT: Good afternoon to both of you.

1 MS. SIXKILLER: Thank you. Good afternoon.

2 MR. HILLYER: Good afternoon, Your Honor.

3 Cam Hillyer and Adam Langley from Butler Snow on
4 behalf of FedEx Supply Chain Logistics. And Candace Carson is
5 also on the phone and Will Perry, as well.

6 THE COURT: Okay. Good afternoon.

7 MR. GUFFY: Good afternoon, Your Honor. Philip Guffy
8 from Hunton Andrews Kurth on behalf of the original petitioning
9 creditors.

10 THE COURT: Good afternoon, Mr. Guffy.

11 All right. Is there anyone who wishes to make an
12 appearance in the Goodman matter?

13 (No audible response)

14 THE COURT: All right. Hearing no takers, all
15 righty. So we are here primarily with respect to the motions
16 to quash certain deposition subpoenas that have been filed by a
17 variety of parties including ARRIS. And I also understand that
18 we're going to have a status conference today on discovery in
19 general.

20 So how would we like to begin?

21 MR. PARHAM: It doesn't really matter. Either one of
22 the motions to quash I think are probably the first order of
23 business and then we can talk. And we'll be talking some about
24 the discovery at the same time probably as we go along, so I
25 think -- I'm happy to go first.

1 THE COURT: Okay.

2 MR. PARHAM: It probably makes more sense.

3 THE COURT: All righty. I'm not sure if the folks on
4 WebEx could hear the exchange between Mr. Kleinsasser and Mr.
5 Parham.

6 Mr. Parham has said on behalf of the debtors that
7 he'd be happy to go first with respect to the motion to quash.
8 Is there anything in the alternative that any party would wish
9 to propose from WebEx?

10 (No audible response)

11 THE COURT: All righty. Mr. Parham.

12 MR. PARHAM: Okay. Your Honor, we're here on a
13 motion to quash certain discovery that has been served on us
14 after hours on Monday last week by ARRIS.

15 And to give you an overview of kind of what's going
16 on in the case, this week starting tomorrow there are
17 depositions tomorrow, Wednesday, Thursday, and two on Friday.
18 And two of those depositions actually also have a 30(b)(6)
19 component for the petitioning creditors and for FedEx.

20 So apart from ARRIS, we have in essence six
21 depositions scheduled over the next four days.

22 THE COURT: Just for the Court's understanding, Mr.
23 Parham, are those all of the debtors and certain individuals or
24 how does it break down?

25 MR. PARHAM: It is both.

1 THE COURT: Okay.

2 MR. PARHAM: Well, there's only one debtor.

3 THE COURT: Right.

4 MR. PARHAM: Yeah. So --

5 THE COURT: That's what I'm trying to understand six
6 depositions.

7 MR. PARHAM: Yeah. So it is James Goodman goes
8 tomorrow. On Wednesday, CFGI which is our financial advisor
9 will go, and they will also have a 30(b)(6) component for both
10 GNET and the debtor, the alleged debtor. And I think there
11 also is a 30(b)(6) CFGI.

12 And then on Thursday is John Goodman. And there will
13 be some leftover 30(b)(6). In other words, we've got 30(b)(6)
14 notices from FedEx and from the petitioning creditors, and some
15 of those topics will be handled, most of them I suspect are
16 going to be handled by CFGI. John Goodman may handle
17 whatever's left over.

18 And then on Friday, we have James Frinzi who is the
19 former CEO of the debtor, and also FedEx. So that's the lineup
20 for this week.

21 THE COURT: So FedEx is being deposed itself?

22 MR. PARHAM: Right.

23 THE COURT: Okay.

24 MR. PARHAM: Right. And we're not here trying to
25 quash any of the FedEx discovery.

1 The issue with ARRIS is really, it's pretty plain and
2 simple. They were advised of this case in mid-September, and
3 that email I think is attached to the motion to quash and also
4 maybe to there, also. But Mr. Sullivan was advised in mid-
5 September. And the question at that time from our state court
6 counsel was we think this stays the case. And his response was
7 we don't think the state court case is stayed.

8 In October, we also reached out once again to Mr.
9 Sullivan and our state court counsel did and offered to modify
10 the stay to let the state court case proceed. And he indicated
11 that they were opposed to the modification of the stay. On
12 November 1st, they filed a notice of appearance in this case.
13 On November 15, they filed their joinder. Then on Monday after
14 hours, they served discovery.

15 We didn't object to the joinder until November 22nd,
16 and so the discovery wasn't in response to our objection to a
17 joinder. Their discovery was before our objection.

18 On the 23rd, as evidenced from their filings this
19 morning in violation of the stay, they filed an amended
20 complaint in the state court case asserting all kinds of new
21 allegations probably because we pointed out that the petition
22 that they had been litigating on for a year was pretty clearly
23 solely against GNET in terms of contract claims and just had
24 some kind of fraud and fiduciary duty-type claims. They were
25 all denied on behalf -- against the alleged debtor.

1 So our objection to the joinder was, wait a second,
2 your claims are -- you're not a qualified creditor because your
3 claims are disputed. And I think that is an important thing to
4 kind of bear in mind as we go along here because we are in the
5 involuntary stage. And the issue here is a claim disputed.

6 And Judge Jernigan certainly addressed that in In re
7 eBackpack, a case this Court may be familiar with, where she
8 had the same kind of issue in terms of the ongoing state court
9 litigation. And she found that the question here is whether a
10 bona fide dispute exists as to the petitioner's claims under
11 the objective standard, in which case the petitioners as a
12 whole would like standing to bring the involuntary bankruptcy
13 case against the debtor.

14 The Court could not possibly ascertain whether fraud
15 occurred in the alleged debtor's transaction without conducting
16 a thorough trial. And we are really in the same boat with both
17 -- frankly, with respect to both FedEx and ARRIS but certainly
18 with respect to ARRIS.

19 You've got a live state court litigation that's been
20 going on for a year; 7,000 documents have been or several
21 thousand documents, rather, have been produced in the case.
22 There's been deposition testimony in the case. It is an
23 ongoing live litigation or it was until it was stayed, and I
24 guess in violation of the stay, they sought to renew it.

25 So it's clearly -- and this discovery is clearly

1 sought to advance their case or discover their case in the
2 state court. The discovery, that is, that they're seeking
3 here. So we think it's for an improper purpose.

4 And let me also explain the burdensome of it is, I
5 mean, we have strained to get all the discovery and we're still
6 in fact kicking out documents to FedEx and discovery to FedEx.
7 We haven't finished with that, although we should finish with
8 that hopefully today.

9 But for ARRIS to come in, I mean, their issues are
10 wholly separate. Their issues are about the relationship
11 between ARRIS and GNET or the alleged debtor, whereas, FedEx
12 has a wholly separate set of issues and the petitioning
13 creditors have a whole set of separate issues.

14 MR. PARHAM: So it's not as though there's overlap
15 here. If we were to have to go, for example, and prepare for a
16 30(b)(6), I think they noticed two or three, GNET. That's,
17 like, another deposition. I mean, it's not a question of do
18 they sit in and kind of join together on the same issues.
19 Their issues are wholly separate and for really for all three
20 of them.

21 So it is burdensome, and it's a problem that they
22 created by waiting. And they -- DLA is a sophisticated law
23 firm. They knew about this case in September. And they
24 certainly had every opportunity to come in and try and join.
25 That's what they wanted to do. And still they wait, frankly,

1 for thanksgiving and then drop a bomb on us frankly when, again
2 as we think solely to gain an advantage in the state court.

3 So we're asking the Court to quash it all. And we
4 shouldn't have to prepare for a 30(b)(6). We shouldn't have to
5 respond to written discovery or to request for admissions or
6 answer interrogatories or produce documents given the late
7 nature of when they've come in.

8 And given, as the Court knows, we have a December 19
9 trial setting. Our brief, frankly, is due today on the
10 petitioning creditors and FedEx. And it's just -- it's just
11 too late and, frankly again, for an improper purpose. That's
12 it.

13 THE COURT: Thank you very much, Mr. Parham.

14 MR. PARHAM: Yeah.

15 THE COURT: Has -- maybe I missed it. Has ARRIS
16 filed a joinder to the involuntary?

17 MR. PARHAM: ARRIS?

18 THE COURT: ARRIS, yes.

19 MR. PARHAM: Yes. They filed it on November the
20 15th.

21 THE COURT: Okay.

22 MR. PARHAM: And then waited six days to file the --

23 THE COURT: Right. Thank you. All right. Would the
24 parties prefer to respond to the motion to quash with respect
25 to the debtors before we turn to Mr. Goodman, or would the

1 parties like to argue them at the same time?

2 MR. KLEINSASSER: I kind of think it makes sense to
3 argue at the same time, Your Honor.

4 THE COURT: Okay.

5 MR. KLEINSASSER: But I'm happy to do whatever
6 everyone else wants.

7 THE COURT: That's fine, Mr. Kleinsasser. Please.

8 MR. KLEINSASSER: Yeah. So, Your Honor, I'm going to
9 try to short circuit a lot of this argument that Mr. Parham
10 already addressed. But so my client, James Goodman, he's a
11 non-party. He's a former director for the debtor. And as
12 Mr. Parham stated, ARRIS has been involved in hotly contested
13 state court litigation with the debtor, James Goodman, and
14 certain other entities for about a year at this point.

15 Mr. Goodman has been sued for fraud personally, and
16 the petition contains really very little evidence or
17 allegations regarding this, which is I think a concern
18 regarding the discovery here. But at any rate, ARRIS just
19 filed, as Mr. Parham stated, an amended petition on Wednesday
20 which is a clear state violation. It's got additional claims
21 against the debtor.

22 It's got fraudulent transfer causes of action and
23 alter ego which under the Fifth Circuit precedent clearly
24 belong to the debtor at this point. Ultimately, Your Honor,
25 that's not really my fight. I represent a non-party. I'm just

1 pointing it out, that's how they're litigating this case.

2 So again, they waited a long time to even appear in
3 the case. And then until Monday evening of Thanksgiving week
4 to serve a deposition subpoena and also document requests
5 covering three years. My motion, I'm actually just asking that
6 you quash the deposition for them.

7 The document requests, I'm just going to deal with
8 the objections process because I think that's more efficient
9 for me to deal with it that way. But my client's been very
10 cooperative here. As a former director, I suppose he's
11 interesting for whatever reason to the bond holders who asked
12 to take his deposition. And we said okay.

13 I said I would like some topics. I don't know why
14 you need all this, why you need to examine him. But they
15 proposed some topics and we agreed to those. And also then
16 FedEx wanted to join and I said, well, that's fine too,
17 provided that you all -- this is one deposition of seven hours.
18 We're not doing two days of depositions. And they were okay
19 with that.

20 The thing with ARRIS though is that FedEx and the
21 bond holders have not been suing my client personally for a
22 year. It seems to me that ARRIS' claims are plainly a bona
23 fide dispute. And I just have real concerns about this
24 deposition being used by ARRIS as an opportunity to get some
25 free discovery for fraud claims in the state court action.

1 And so my motion, Your Honor, I styled it as a motion
2 to quash. But also, alternatively, if the Court is disinclined
3 to prohibit ARRIS from asking questions at this deposition, and
4 I have no problem with them attending by the way, Your Honor.
5 But at any rate, I said at least let's modify the subpoena to
6 narrow it to some very limited topics that allegedly relate to
7 what their claim -- what the issues would be before Your Honor
8 on December 19th. Right?

9 And in included those very narrow topics in my motion
10 to modify. And when you set this hearing, you asked us to
11 confer. I emailed ARRIS about that and said why don't you look
12 at my topics and see if they're agreeable or propose your own.
13 Never heard back. So that's just what we're dealing with here
14 is I can't get them to agree to anything.

15 I think that the idea that they could somehow go into
16 a deposition and just ask whatever they want is highly improper
17 given the fact that there's pending state court litigation
18 against my client personally. And I think what their response
19 is going to be, Your Honor, is that if they go out of bounds
20 for this narrow contested matter, which at this point is really
21 do these creditors have standing or not under the standard of
22 Section 303, that's it.

23 If they go out of bounds, they're going to say you
24 can just object. But that's not what Rule 30 says. What Rule
25 30 says is I can object on the basis of relevance, but my

1 client still has to answer that question unless Your Honor
2 narrows the scope.

3 So that's what I'm here today basically to ask for is
4 either quash their subpoena with respect to my client's
5 deposition testimony, or if nothing else narrow it to a very
6 limited set of topics which I've included in my motion, Your
7 Honor. Thank you.

8 THE COURT: Thank you.

9 MS. SIXKILLER: Your Honor, are you ready to hear
10 from ARRIS?

11 THE COURT: In just one moment. Thank you.

12 MS. SIXKILLER: You're welcome.

13 THE COURT: All right. Ms. Sixkiller?

14 MS. SIXKILLER: Thank you, Your Honor. The timing of
15 this is not a matter of when someone may have known about a
16 bankruptcy proceeding being filed or initiated. We are
17 matching and mirroring the timing of other parties in this
18 case. For example, FedEx noticed the depositions I think on
19 November 11th, but they weren't finalized as to date or time
20 until I think it was, it's in our Exhibit 1 to our opposition
21 to one of the briefs which was Tuesday, November 22nd following
22 a call of counsel.

23 We joined the case on -- filed our official joinder
24 on November 15th and quickly acted within six days to serve
25 targeted discovery that was careful not to overlap what might

1 have already been served by FedEx and others. So it would take
2 time to review those materials.

3 And in fact, your scheduling order acknowledges, and
4 by your scheduling order that was filed as a stipulation of
5 parties was not entered until the 21st, the same date that we
6 served our discovery, or signed that date and filed on the
7 22nd.

8 But in there it notes that FedEx served their
9 discovery on November 10th. So we took a short period of time
10 after that to get our joinder on file, and then to get copies
11 of that discovery and then narrowly tailor ours to avoid
12 duplication.

13 The parties agreed there to a very short period of
14 time for discovery responses, and I think 13 days for debtor
15 and others to respond to discovery. We provided nine to the
16 debtor and offered more time. They just simply didn't show any
17 interest in taking us up on that offer for more time.

18 The key here in listening to the argument that was
19 just presented by both groups of the parties opposing, or the
20 non-parties opposing to the discovery is that for example the
21 debtor wants to quash all discovery and provides no evidence,
22 no sufficient argument to justify that extraordinary step.
23 Same with Mr. Goodman.

24 Again, the debtor is trying to not only strike all
25 interrogatories, all RFAs and all RFPs even though they

1 acknowledge that they have some of these documents at their
2 fingertips because they may have been produced in the state
3 court action in which I am not involved.

4 THE COURT: You are not involved --

5 MS. SIXKILLER: They somehow claim --

6 THE COURT: -- as in you personally or you, your
7 client?

8 MS. SIXKILLER: Me personally. I am not an active
9 attorney in that state court litigation. And the mere fact
10 that there is ongoing litigation does not in and of itself make
11 our claim -- place it into bona fide dispute.

12 Well, that's not present before the Court at this
13 time. This is precisely why we need to conduct discovery in
14 this case. In particular in the state court case, I understand
15 there's a protective order, and some of the discovery that
16 maybe the debtor has already provided would be subject to a
17 protective order, that it cannot be used in this case.

18 So the fact that there might be duplication in
19 requests simply means it's not a burden on them to go ahead and
20 go into, again, the documents at their fingertips and reproduce
21 them in this matter with the Bates label that allows it to be
22 subject to any protective order in this case so we can use it
23 in this matter in our briefing that's due before the Court I
24 think on December 9th and for the hearing on December 19th.

25 Again, the debtor complains that the discovery is

1 unduly burdensome and a fishing expedition, but fails to
2 demonstrate how it's burdensome. ARRIS, it also contends ARRIS
3 is not a proper party to the proceeding. But that's an
4 argument again for the December 19th hearing.

5 Distilled down, what debtor at least and James
6 Goodman by its own motion are trying to do is to tie ARRIS'
7 hands so it cannot conduct discovery to support its claim. But
8 that's precisely what the Court's scheduling order is set to do
9 here. It's allowed time for other creditors like ARRIS to
10 join. That deadline still hasn't passed. And it's also
11 allowed discovery by those creditors and others to take place
12 before the December 19th hearing.

13 We are working within the parameters of that. I
14 believe the deadline for other creditors to join is December
15 12th. So we're already in this. We're not joining late.
16 We're joining timely. And we quickly served targeted and
17 narrow discovery that you have not heard a single RFP-1, RFP-2
18 is problematic.

19 They're simply bucketing up everything and trying to
20 preempt our right to discovery, and essentially asking the
21 Court to prematurely rule on the ultimate issue by blocking
22 discovery. And we ask the Court not rule on the ultimate
23 question without providing an opportunity for ARRIS to
24 discovery facts relevant to that ultimate question.

25 Now, again, the petitioner still has standing even if

1 a state court claims they're not subject to final judgment.
2 And that's In re Smith, 437 B.R. 817 at Page 823. And that's
3 out of the Northern District of Texas. That's this court.

4 So, again, neither as to the John Goodman, because
5 there's James Goodman and John Goodman. So as to the John
6 Goodman and GNET related depositions that debtor is
7 challenging, it's significant that neither of them are
8 objecting. They did not bring their own motion to quash or
9 indicate any intent not to sit for questions on their own by
10 ARRIS.

11 It is unclear why debtor has standing to object,
12 particularly given that debtor says GNET is an entirely
13 separate entity. Debtor's objection to ARRIS' joinder is
14 where you can find this. It's Document 77 at Paragraph 4. It
15 says all rights and interest from the acquisition were
16 transferred to GNET ATC, LLC, an entity different than the
17 alleged debtor. But GNET again has not objected. And John
18 Goodman is a former executive of both GNET and the debtor. And
19 he has not objected. Therefore, there's no basis to quash
20 their depositions.

21 The burden here is for debtor and for James Goodman
22 to make a detailed showing of undue burden. The party
23 resisting discovery must, quote, make a specific detailed
24 showing of how a request is burdensome. A mere statement by a
25 party that a request is overly broad and unduly burdensome is

1 not adequate to voice a successful objection. That's In re
2 Adkins Supply Inc., a Northern District of Texas decision at
3 555 B.R. 579 at Page 590.

4 The motion to quash provides no detail, again, of
5 alleged burden, nor was any detail provided today at this
6 hearing. Not a single interrogatory is identified, a single
7 RFA or single RFP. And again, we have offered more time. The
8 debtor found 13 days to be agreeable with the FedEx discovery.
9 We provided nine and offered more.

10 The 13 days, if we were to calculate it out, would
11 move this to December 5th which would still give us time. It's
12 not ideal. We would like a rolling production at least so we
13 can have some documents for the deposition or be able to use
14 some documents that we have that might be Bates labeled for use
15 only in the state court case at the depositions.

16 But December 5th will still give us days and time to
17 get our brief prepared and on file with the Court in advance of
18 the December 19th hearing. And that's the same 13 days that
19 debtor already said was sufficient to FedEx. And again, we're
20 willing to offer and t work with them on that.

21 There's no burden on the deponents as to the
22 depositions because they've already agreed to sit for
23 deposition as you heard from them directly. They're being
24 deposed by both the petitioning creditors and FedEx, or FSCLE.
25 November 30th for the debtor and GNET, December 1st for the

1 debtor, GNET, and John Goodman. And there's no -- and then
2 tomorrow for James Goodman.

3 There's no burden to allow ARRIS to conduct
4 examination where these other parties are already deposing
5 them. They're already going to be there. And they can object
6 at the time of the deposition to any questions that they take
7 issue with.

8 At this point, it's premature to challenge questions
9 as being outside the balance of the topic of this matter when
10 we haven't even posed a question. We've assured the debtor and
11 Mr. Goodman that we intend to stay within the bounds of this
12 matter.

13 And it's telling by James Goodman's lack of objection
14 to our RFPs. As we indicated to him, and I'll indicate to the
15 Court, I think our paper said this too, is that the RFPs
16 generally will track, right, what we're going to go into on the
17 deposition. And the fact that they didn't take issue with that
18 will tell you that there's agreement that that's within the
19 scope of this proceeding.

20 On that note, we just simply can't be tied as to
21 that's all we have to conduct questions on as to the
22 individuals. As this Court is well aware, there's no
23 obligation to provide categories of questions or specific
24 questions to an individual that's not a 30(b)(6) witness. And
25 I can cite some cases for that in a moment.

1 The other argument they've said is it's a fishing
2 expedition. And I've addressed that a little bit, but I'll go
3 into it some more. Like undue burden, this type of objection
4 requires, quote, affidavits or offering evidence revealing the
5 nature of the burden. And that's the Safety Consultants case
6 we cite in our papers, another Northern District of Texas case.

7 The motion to quash, both by debtor and by
8 Mr. Goodman, provides no details of any alleged burden. While
9 again, topics may overlap from one litigation to another, it
10 does not mean discovery is not allowed in that other matter.
11 The discovery we're seeking here is relevant to the issues, is
12 within the parameters and bounds of what this Court has allowed
13 creditors to conduct discovery on before the December 19th
14 hearing.

15 And specifically, GNET's role in the assignment is
16 relevant here. The distribute agreement is relevant here, as
17 we've discussed in our papers. The debtor for example argues
18 that its obligation under the distribute agreement to ARRIS was
19 assigned to GNET, and therefore only GNET is liable. So that
20 comes into question, as they've said, as to whether there's a
21 bona fide dispute.

22 And we contend there is not, and we'll show that.
23 But the form of assignment here is relevant. So they're
24 claiming there was an assignment. Was there an assignment.
25 What's the form of the assignment? What's the language?

1 That's all relevant to get into. The timing of the assignment.

2 Again, John Goodman was CEO of the debtor and GNET
3 during the relevant time. So as to discovery targeted to him,
4 he may well have knowledge relevant to the heart of those
5 issues.

6 Again, whether ARRIS ultimately is a proper party to
7 this proceeding is not currently before the Court. That cannot
8 be decided before we get to conduct discovery on that issue.

9 Again, as to whether we or the petitioning creditors or FedEx
10 are entitled to relief as creditors in this proceeding is to be
11 decided December 19th or after that hearing concludes, not
12 before.

13 Again, ARRIS claims we're not inconsistent with the
14 state court lawsuit. It's not -- even though it's not relevant
15 to the current dispute, the live petition, as you've heard
16 about, clearly alleges debtor is liable for amounts owed on the
17 distributor agreement.

18 Significantly, the Southern District of New York
19 applying New York law, which is the same law as governed the
20 distributor agreement, recently considered assignment language
21 identical to ARRIS' distributor agreement and held assignment
22 did not let the other off the hook from liability. So that
23 would mean that again, debtor would be on the hook here and
24 liable for this claim.

25 THE COURT: Is that the Wistron case?

1 MS. SIXKILLER: Yes, that's the Wistron case.

2 Now here, debtor claims the distributor agreement was
3 assigned again. And even if it was assigned to GNET, then
4 debtor's still jointly liable at minimum. But we have to have
5 the right to conduct discovery as to both approaches, right?
6 So whether we have to rely on Wistron or not, do we get to say
7 there was no assignment so it's debtor?

8 There was an assignment, but Wistron, right, makes
9 them jointly liable. Or was there something else in between,
10 and that's what discovery is meant to uncover here. But we
11 believe we will ultimately show ARRIS has standing.

12 As to James Goodman, I'll briefly -- I'm going to
13 look through my notes to make sure I haven't missed anything
14 there. They didn't -- they only are objecting to the
15 deposition. We've assured them we'll stay within the bounds of
16 the deposition. They're already sitting for a deposition. So
17 we're going at the end.

18 We're not going to repeat questions. We have limited
19 time and a date, as you've noticed. Depositions have to be
20 concluded by December 2nd. So therefore, we have the date that
21 he's sitting and to conclude our questions.

22 Again, as I mentioned, we're not required to give
23 deposition topics in advance because it's not a 30(b)(6)
24 deposition. The undue burden, again, as I mentioned, this very
25 Court said they have to make specific detailed showing and they

1 have not done that.

2 As to the topics a little further, a party -- here's
3 the case law that I mentioned I was going to get to with some
4 citations. A party noticing a deposition is not required to
5 state the subject matter concerning which the examination will
6 be made. That's actually the Charles Alan Wright and Arthur R.
7 Miller Federal Practice and Procedure Section 2106.

8 But Ruth v. City of Creedmoor held that opposing
9 party, quote, need not provide the deponent with a list of
10 questions or topics for examination prior to the deposition.
11 And that's an Eastern District of North Carolina decision I can
12 give you the cite for if you'd like.

13 Deposing party may inquire into any non-privileged
14 topic where there is any possibility that the information
15 sought may be relevant to the claim or defense of any party.
16 That's that same decision. And it is a 2015 WL 1815475. And
17 it's at Page 5 for both quotes.

18 Again, ARRIS will stay within the bounds of
19 information relevant to this proceeding. But if Goodman
20 believes ARRIS strays, or if similarly the debtor does, the
21 appropriate remedy is at that time to object for the parties to
22 be able to meet and confer to the extent necessary on the
23 topics and see if they can work out the issue on their own.

24 Thank you, Your Honor. Is there anything else you
25 would like for me to address at this time?

1 THE COURT: I don't think so. I may come back to the
2 parties. But I'll allow for rebuttal. But before I do that,
3 does anyone else wish to be heard before I turn back to Counsel
4 for Mr. Goodman and the debtor? Okay.

5 Mr. Parham, Mr. Kleinsasser? Whoever wishes to go
6 first.

7 MR. PARHAM: Just one second. So let me address a
8 few things. One, DLA has been in the state court case all
9 along. Maybe Ms. Sixkiller wasn't, but Mr. Sullivan certainly
10 was who's on the phone here in this deal. So for them to argue
11 they didn't know or whatever, I mean, Mr. Sullivan I think
12 signed the amended complaint that they filed Wednesday night in
13 violation of the stay.

14 So they certainly have known, number one. Number
15 two, there is evidence of the burden. And the evidence of the
16 burden is -- the burdensomeness is throughout all the timing,
17 number one, which is a matter of this Court's record, when the
18 joinder was filed, when the discovery was filed, when the -- so
19 that's all on this Court's docket.

20 And certainly it's something you can take judicial
21 notice of. You can take judicial notice of the state court
22 litigation which remains ongoing. And those petitions, those
23 pleadings were attached to our joinder which we referenced in
24 the objection, or in the motion to quash. And also, of course,
25 they introduced state court pleadings in their reply.

1 So there certainly is evidence on burdensome. What
2 they want to kind of gloss over is the fact that their issues
3 are wholly different from FedEx or from the petitioning
4 creditors. So in essence, this is a whole new deposition.

5 And this whole notion that well, you agreed to 13
6 days with FedEx, we agreed to trial for 13 days with FedEx, and
7 maybe hopefully we'll finish today. But at the time, we didn't
8 know that there was ARRIS coming. They piled on top with a
9 whole different set of deals. And frankly, the rules are 30
10 days, not 9 days like they graciously offered, or 13.

11 And so there -- and there was no -- if you want to
12 play that game, there was no motion to shorten time. They just
13 piled on and said here, nine days. So the burdensome, I think,
14 is evident on its face. And certainly even from the discovery
15 that we've put in on the topics are there in terms of --

16 THE COURT: Well, burden is typically an evidentiary
17 issue. I mean, I'll recognize that. But at the same time I'm
18 recognizing that we've got a motion to quash that's been filed
19 on three and a half minutes' notice. So --

20 MR. PARHAM: Right.

21 THE COURT: And I'm not being literal, of course. So
22 I'm going to give everybody a little bit of grace here.
23 Obviously the discovery could have been propounded sooner.
24 Obviously, there could be some agreements here on discovery
25 that has already been served, and probably a peek under the

1 tent under a separate protective order.

2 And obviously, parties could have conferred and been
3 more agreeable. But that's not where we are. Okay? We're
4 here on a fight.

5 And so I guess the question for me, Mr. Parham, is
6 first with respect to the alleged debtor's objections to any
7 discovery with respect to John Goodman and GNET, they're not
8 here, are they?

9 MR. PARHAM: Well, let me address that.

10 THE COURT: Okay.

11 MR. PARHAM: In essence, they are. Mr. Goodman --
12 well, GNET is an affiliate. The records are basically kept by
13 the same people. The same people are going to have to respond
14 to the GNET discovery as -- which all the discovery so far has
15 been 30(b)(6)s to Goodnet and -- or to Goodman and to GNET.

16 And we have essentially one consultant plus the
17 consulting firm that are handling all the documents. And so
18 it's in essence it's the same people. We probably should have
19 objected on behalf of everybody.

20 John Goodman frankly is the consultant running the
21 debtor. So we're -- basically it's the same people who are
22 responding --

23 THE COURT: Am I wrong in my assumption that John
24 Goodman and James Goodman are related individuals?

25 MR. PARHAM: No, you are not wrong. They are

1 related. They're brothers.

2 THE COURT: All right.

3 MR. PARHAM: That said, they're separate individuals.

4 And --

5 THE COURT: Understood.

6 MR. PARHAM: -- John Goodman hasn't been associated
7 with this business for, like, two and a half years up until
8 very recently. So there is that.

9 But so in terms of the burdensomeness, to respond,
10 the requests are basically the same to all of them. And the
11 people answering are the same as to all of them. So if we do
12 for one, in essence the burden is, I mean, it's the same deal
13 for --

14 THE COURT: Well, I mean, does that not cut against
15 your argument, a little bit, Mr. Parham, is that if it's the
16 same folks keeping the same books and records, obviously it's
17 the debtor's -- the alleged debtor's assertion that these are
18 affiliates in different companies.

19 I've heard at a prior hearing there's some allegation
20 that they may not be different companies. And I seem to recall
21 with respect to FedEx there's this same GNET versus Goodman
22 Networks argument, right? Is it different in the ARRIS case
23 than it is in the FedEx case?

24 MR. PARHAM: Well, they're different facts.

25 THE COURT: Okay.

1 MR. PARHAM: For sure.

2 THE COURT: Okay.

3 MR. PARHAM: Because you had people corresponding
4 with FedEx and you had people corresponding with ARRIS. And
5 they're different.

6 THE COURT: Okay. Okay. Fair enough. That --

7 MR. PARHAM: And so it's --

8 THE COURT: That was my question factually --

9 MR. PARHAM: So you have --

10 THE COURT: -- is if there was one overarching
11 assignment or transfer agreement that was going to hit multiple
12 contract. Maybe not.

13 MR. PARHAM: No. No.

14 THE COURT: Okay.

15 MR. PARHAM: So you have two separate transactions,
16 two separate contracts. This is all different. So you have
17 that. It would be a whole new topic.

18 In terms of, and I'm trying to recall now your
19 question in terms of the issue. In general, it is the same in
20 the sense that you had Genesis Telecom who's not here who the
21 sale to Goodman Networks, the alleged debtor. And
22 corresponding at the same instant basically there was an
23 assignment to GNET.

24 And in essence, the Genesis employees became GNET
25 employees. That's how this essentially worked. And so -- and

1 that's where the operations were. The other difference you
2 have, you have one difference is frankly in terms of just the
3 maturity of the claims. I think FedEx eluded to theirs being
4 in litigation but -- or starting litigation.

5 But ARRIS was ahead of the curve. And ARRIS has been
6 in litigation. And they have made fraud claims against the
7 alleged debtor and breach of fiduciary duties with almost it
8 would never stand up under a federal fraud-type analysis in
9 state court. You can just say fraud and you're okay. We'll
10 let that go.

11 But you don't see those kinds of allegations in their
12 state court case. But they make very detailed allegations
13 against GNET and they say there was an assignment, and GNET is
14 liable on the contract and on and on and on. And that has been
15 the case. And that's the case that's been litigated in the
16 state court for, like, a year.

17 THE COURT: And that is -- and not to cut you off,
18 Mr. Parham, but isn't that your argument for the 19th?

19 MR. PARHAM: It is.

20 THE COURT: That ARRIS is not eligible to be a
21 petitioning creditor because either A, their claims are at a
22 different entity, or B, is subject to a bona fide dispute.

23 MR. PARHAM: Right. It is an argument for the 19th.
24 But it's also, it goes into and informs the argument here that
25 this discovery isn't -- I mean first of all, the issue is, is

1 there a bona fide dispute. You're not going to hear and
2 determine, at least not in the context of an involuntary, who's
3 liable and who's not. Right? I mean, because that's a trial.
4 It's a separate trial, whether it's in the state court, whether
5 it's here as part of a claim objection.

6 That's not what we're doing right now. And so you
7 look at in terms of what's reasonable in terms of the discovery
8 and what is the intent of the discovery. 303 excludes a lot of
9 litigation, contested claims because the idea is not to come in
10 and adjudicate them. The question is is there a bona fide
11 dispute.

12 And so discovery that's aimed at the merits so to
13 speak, to the degree that they are, and given the fact that
14 they're continuing to press forward in the state court where
15 discovery is basically over, we would argue --

16 THE COURT: Is that the Backpack decision that you
17 quoted --

18 MR. PARHAM: What?

19 THE COURT: -- that you cited from Judge Jernigan?

20 MR. PARHAM: The what?

21 THE COURT: Is that the backpack decision?

22 MR. PARHAM: Uh-huh.

23 THE COURT: And is the backpack decision, which I'm
24 not necessarily familiar with. If it's in your papers, I'll
25 look it up. Is that -- does that go to discovery, or does that

1 go to ultimate eligibility?

2 MR. PARHAM: It goes, Your Honor, to eligibility.

3 THE COURT: Okay.

4 MR. PARHAM: I'm happy to hand it up and --

5 THE COURT: Oh, I appreciate that. Thank you so
6 much. And for the record, In re eBackpack is 605 B.R. 126.

7 Thank you very much, Mr. Parham.

8 MR. PARHAM: Sure. And I'll address the Wistron
9 NeWeb Corporation case which I wasn't even aware of until this
10 morning when I saw their response, that decision which was from
11 November 17th. So I guess it was last week.

12 Briefly reading it and I don't know where it's going
13 to go in terms of whether there will be appeals, whether it's
14 final. We haven't had a chance to really study it. But it is
15 interesting because it's the similar, very similar setup to
16 what happened here. Genesis sold the business to Goodman, and
17 it was simultaneously assigned to GNET.

18 And it appears what the Court in New York has done,
19 and the defense there was wait a second, we never agreed to an
20 assignment. And so what the Court seems to have said is that
21 okay, so Genesis is still liable, and GNET is liable, but did
22 not say Goodman is liable.

23 Now Goodman was not a party to that case. But just
24 on its face, it appears to me that it cuts against them, both
25 FedEx and ARRIS because both are arguing now, now ARRIS, FedEx

1 has always argued no assignment. ARRIS has recently flipped.

2 And but it seems to me that they don't -- they
3 basically are pleading themselves out, I mean, because they're
4 basically -- to the extent if this case is what I think it is,
5 or what we think it is, then Genesis and GNET which are the two
6 parties that were sued there, Goodman was not sued there, are
7 the two parties that the Court there said might be liable.

8 And again, I'm not sitting here and saying this is
9 bonding authority or anything because I've just seen a case.
10 And obviously I don't know what the -- I believe it's not a
11 case that Akerman handles so I don't know where all it goes in
12 terms of appeals or the like, or if this is final.

13 But it does appear on its face that this kind of, the
14 whole argument that we didn't agree to the assignment means
15 that Genesis, which was the original party, remains liable.
16 And then GNET which was the operating party there as it was
17 here in both cases of ARRIS and FedEx is also liable.

18 But that's, unless the Court has other questions,
19 that's my response to --

20 THE COURT: So, let me take a step back on that
21 particular argument. The argument was that Genesis, was there
22 a sale from Genesis to Goodman?

23 MR. PARHAM: There's an APA between Genesis --

24 THE COURT: Okay. So there's an APA between Genesis
25 and Goodman. So I don't think I understand your argument that

1 there could not have been consent to GNET.

2 MR. PARHAM: Well, there was a simultaneous
3 assignment of essentially the business of GNET, or Genesis to
4 GNET, and all the contracts. Everything was simultaneously
5 assigned. And --

6 THE COURT: So it was sold to Goodman and then, but
7 simultaneously --

8 MR. PARHAM: In the same instant, basically. I
9 mean --

10 THE COURT: Okay.

11 MR. PARHAM: They signed an APA. Goodman, for
12 whatever reason, was the buyer. And it was immediately signed
13 to --

14 THE COURT: To GNET.

15 MR. PARHAM: -- to GNET. And when --

16 THE COURT: Okay.

17 MR. PARHAM: -- the Genesis people came in, they were
18 -- the next day they were GNET employees.

19 THE COURT: Okay.

20 MR. PARHAM: That's kind of how that worked. And
21 what FedEx and ARRIS now are saying is that well there was
22 never an assignment, we never approved the assignment. We
23 think the evidence will be that both were fully aware of who
24 they were dealing with. But -- and that was GNET. But we'll
25 see where the evidence goes on that.

1 THE COURT: And were Genesis and Goodman affiliated
2 prior to the APA?

3 MR. PARHAM: Well, I believe -- let me back up. You
4 said Goodman and GNET, correct?

5 THE COURT: No, Genesis and Goodman. Or was that a
6 third-party transaction?

7 MR. PARHAM: No.

8 THE COURT: No. So Genesis was also affiliated.

9 MR. PARHAM: Genesis would be an affiliate.

10 THE COURT: Okay.

11 MR. PARHAM: Genesis would have been an affiliate.
12 And GNET was created basically to take the -- they were a new
13 co.

14 THE COURT: Okay.

15 MR. PARHAM: That the Genesis business was --
16 effectively the way to think about this is the Genesis business
17 was dropped into a new co.

18 THE COURT: Okay. Via Goodman?

19 MR. PARHAM: What?

20 THE COURT: Via Goodman?

21 MR. PARHAM: Yeah.

22 THE COURT: I need to talk to the corporate lawyers.
23 No, I'm kidding.

24 MR. PARHAM: So, yeah. So, yeah. It's --

25 THE COURT: Something tells me there's a tax lawyer

1 somewhere in here.

2 MR. PARHAM: Yeah. Somewhere I'm sure there's a tax
3 angle in this. There must be. It's beyond the comprehension
4 of a mere bankruptcy lawyer like myself. But that's -- anyway,
5 so that's why they did that, or that is what happened.

6 THE COURT: All right.

7 MR. PARHAM: All right.

8 THE COURT: Okay. So I think you've answered my
9 questions. So I had some questions about John Goodman and
10 GNET. You've answered those questions. And with respect -- so
11 has the alleged debtor also responded to discovery in the state
12 court litigation?

13 MR. PARHAM: When it wasn't the alleged debtor. I
14 mean, it hasn't --

15 THE COURT: Weren't they a party before?

16 MR. PARHAM: Oh, no, no, no. They have been a party.
17 And GNET and Goodman have -- and I assume Goodman, now the
18 focus of that case was GNET. And so I don't know how much --

19 THE COURT: Well, I recognize the difference between
20 the first amended petition and the second amended --

21 MR. PARHAM: Right.

22 THE COURT: -- petition. We'll get to that.

23 MR. PARHAM: Yeah.

24 THE COURT: My question was whether or not the
25 alleged debtor was served and responded to discovery in the

1 state court case.

2 MR. PARHAM: Let me answer it this way because I
3 don't want to mislead the Court. They certainly were served
4 with the complaint. They filed an answer. I know that they
5 are being represented by the same law firm, Goodman and GNET.
6 And I know that that law firm has produced thousands of pages
7 of documents.

8 And what I don't know is whether the request for
9 production in that case, I assume they were to both Goodman and
10 to GNET. But I don't know that as I stand here today.

11 THE COURT: Understood.

12 MR. PARHAM: I would also say --

13 THE COURT: I appreciate the candor. But --

14 MR. PARHAM: Yeah. I'll --

15 THE COURT: But you said that GNET and Goodman
16 networks the alleged debtor are both represented by the same
17 counsel in the state court litigation?

18 MR. PARHAM: Correct.

19 THE COURT: Okay.

20 MR. PARHAM: And so we don't necessarily have --
21 necessarily made that distinction. I just know that there's
22 been discovery. I think it's been Goodman also has produced.
23 It also raises though another question I'm sorry that I forgot
24 to address earlier which is yeah, some of the documents have
25 been designated as confidential in that deal.

1 What we've not been asked is if we would agree that
2 they could use them in this deal because there's been no such
3 request. I think frankly the argument that well, some of these
4 documents are confidential so we may have gotten them, I don't
5 think they've looked at them.

6 THE COURT: Right.

7 And I'm obviously not privy to the protective order
8 in place in the state court litigation. But something tells me
9 it's probably limited to a certain employee, I mean, excuse me,
10 attorneys that are working on the state court matter. So I
11 can't imagine how bankruptcy counsel might not have those. But
12 we'll get there.

13 Mr. Kleinsasser?

14 MR. KLEINSASSER: Just one minor clarifying point,
15 Your Honor.

16 THE COURT: Please.

17 MR. KLEINSASSER: It's not so much material. But I
18 am involved and have been from the beginning of the state court
19 litigation. It's actually separate firms representing -- it's
20 Ferguson Braswell represents GNET. And Connor Lee Shumaker I
21 think is the name of the firm represents the debtor. So
22 separate counsel, they are not the same.

23 Both parties I believe have produced a substantial
24 amount of documents, I think thousands of pages. But at any
25 rate, that's not particularly material. I just want to make

1 sure we're clear and accurate with you on that.

2 So I'm just going to be very brie, just to clarify
3 one minor point to address something Ms. Sixkiller said. It's
4 not that I don't object to their request for production to my
5 client. They're extremely objectionable requests. They were
6 served Monday evening. And they cover three years of documents
7 and ask for production in a week. It's just that I'm dealing
8 with them out of court for the objections process. So --

9 THE COURT: No, no, no, and I certainly -- I
10 understand. Well, let's take a look at the RFPs. So I'm
11 looking at Exhibit A to your emergency motion to quash at
12 Docket 78. So I'm looking at what appears to be, yeah, 78-1.
13 And you have five requests there. So let's talk about them
14 because certainly five requests can be extremely broad. But
15 let's talk about why they're overly broad.

16 So request number one, draft documents assigning the
17 distributor agreement.

18 MR. KLEINSASSER: So the problem here, Your Honor, is
19 that -- so my client's a non-party.

20 THE COURT: Right.

21 MR. KLEINSASSER: And they have a requirement that's
22 different than if he's a party under Rule 45. Don't impose an
23 undue burden. So I could call James and say, hey, James, do
24 you think you have any drafts of these documents? I don't
25 know.

1 What they're going to say what did you do to search
2 for those. And they're going to say did you run email
3 searches, how many documents did you review, which of course
4 were he to go through that as a non-party for this, then
5 basically he's going to incur thousands of dollars in attorneys
6 fees as a non-party.

7 I mean, that's my beef with that request, and frankly
8 the first three. Four and five are a lot more broad because
9 they're produce all communications in any way concerning the
10 distributor agreement. I mean, the idea that some of that
11 could be done to a non-party on a week's notice is, I mean,
12 that's just crazy. So --

13 THE COURT: Has Mr. Goodman been -- has discovery
14 been propounded upon him in the state court litigation?

15 MR. KLEINSASSER: It has, Your Honor.

16 THE COURT: Okay. Has he complied with discovery in
17 that litigation already?

18 MR. KLEINSASSER: He has. There are outstanding
19 objections between both ARRIS and Mr. Goodman there that
20 frankly need to be resolved. And I think both parties have
21 agreed initially to do certain things that like look for this
22 or look for that or whatever.

23 Then the bankruptcy got filed and things kind of came
24 to a standstill at least until Wednesday when the amended
25 petition was filed.

1 THE COURT: Okay. And when was the distributor
2 agreement entered into?

3 MR. KLEINSASSER: Well --

4 THE COURT: Give or take.

5 MR. KLEINSASSER: So --

6 THE COURT: Was it in 2019 or 2020?

7 MR. KLEINSASSER: Yeah. I think if you look at their
8 petition, initially it was entered into allegedly in 2008.

9 THE COURT: Oh, okay. So it does go back.

10 MR. KLEINSASSER: Yeah. And I think it went through
11 a couple entities. There was Motorola, there was I think
12 CommScope and I don't want to misrepresent that or anything
13 like that. But there's --

14 THE COURT: Okay. So --

15 MR. KLEINSASSER: -- ARRIS ultimately --

16 THE COURT: -- it goes back quite a ways. I
17 understand the issue. I'll be candid, it's not going to be a
18 surprise to anyone that I loathe discovery disputes. I think
19 that puts me in with the vast majority of bankruptcy judges.

20 MR. KLEINSASSER: Yeah.

21 THE COURT: Okay. All right.

22 MR. KLEINSASSER: I mean, I think what I'm mostly
23 concerned about today is at the end of the day, Your Honor, I
24 don't think ARRIS should be allowed to question my client given
25 the fraud claims they've asserted against him.

1 But I mean the bottom line is what, when I was
2 thinking about this hearing I thought what is Judge Larson
3 likely to do. I mean, realistically, she's probably going to
4 let them question him on some topics. But is it not reasonable
5 just to modify the scope.

6 And what's shocking to me, when we've had conferences
7 on this which we did on Tuesday before I was forced to file an
8 emergency motion to quash, and on Wednesday when I reached out
9 and I said please propose any revisions to my topics is they
10 won't agree to narrow the topics to things that are very
11 reasonable in light of the very narrow contested matter here.

12 And that's what concerns me because what they're
13 going to do is they're going to ask an out of bounds question.
14 And I can object to it, but I can't --

15 THE COURT: No. And --

16 MR. KLEINSASSER: -- shut the depo down.

17 THE COURT: And I do --

18 MR. KLEINSASSER: And that's -- I don't --

19 THE COURT: I understand. I understand the issue. I
20 frankly don't understand, I'll be candid, I mean it's not going
21 to be a surprise to anyone that I loathe discovery disputes. I
22 think that puts me in the vast majority of bankruptcy judges.

23 What I can say is I'm frankly surprised that the
24 parties haven't been able to narrow this on their own. This
25 seems pretty cut and dry to me from the standpoint of you have

1 an involuntary petition. We have a single issue that we are
2 going to litigate on the 19th, and that's the eligibility.

3 And so I do recognize that in the factual
4 circumstance of this case where there is some issue of A,
5 liability by Goodman, and B, some issue of okay, well you sued
6 GNET, you didn't sue Goodman because again we'll talk about the
7 second amended complaint later, that this can't have been
8 narrowed by now.

9 Obviously, any fraud by Mr. Goodman shouldn't be on
10 the table for this. But it seems to me if discovery has gone
11 back and forth already, I mean, it seems like the answer is out
12 there. Is there any discovery in these five that has not
13 already been propounded upon Mr. Goodman? I mean --

14 MS. SIXKILLER: Your Honor, if I may be heard?

15 THE COURT: -- there's 5 RFPs.

16 MR. KLEINSASSER: Well, I mean, these requests were
17 extremely broad. I'd have to look -- the discovery that went
18 to Mr. Goodman probably occurred in June of this year.

19 THE COURT: Okay.

20 MR. KLEINSASSER: I'd have to look, Your Honor. I
21 mean, there's been longstanding objections by both parties.
22 And, frankly I just would have to look at that. I mean, I
23 think --

24 THE COURT: So in other words, he produced thus far
25 very little in terms of documentary evidence? It's been more

1 dealing with the objection process?

2 MR. KLEINSASSER: Yeah, we --

3 THE COURT: Is that what you're telling me?

4 MR. KLEINSASSER: My recollection is we provided
5 interrogatories, as did they. They had concerns with ours, we
6 had concerns with theirs. And that's kind of -- and then
7 ultimately, that came to a standstill in terms of resolving it
8 when the bankruptcy was filed.

9 THE COURT: Okay.

10 MR. KLEINSASSER: I mean, in terms of I understand
11 you don't like discovery disputes. I wouldn't either in your
12 shoes. All I can say is, Your Honor, it takes two to tango.
13 I've tried to resolve this.

14 THE COURT: No, no, no. It does, it does. And I see
15 that, I see that a line has been drawn by both parties. And
16 look, everyone advocates for their client. I get that. I get
17 that. I've suffered through a discovery fight or two or two
18 hundred in my time.

19 But I just seems to me that this is something that we
20 can narrow. So let me ask you, Ms. Sixkiller, and I may come
21 back to you, Mr. Kleinsasser.

22 Ms. Sixkiller, I've put it off probably for long
23 enough. Explain to me how you guys filed the second amended
24 complaint. The issues, I mean --

25 MS. SIXKILLER: Your Honor --

1 THE COURT: The issue's not before us in terms of a
2 motion to enforce or a motion for contempt. But obviously it's
3 the white elephant in the room.

4 MS. SIXKILLER: Your Honor, I'm, again, not active in
5 that case. I can say, though, that the intent was simply to
6 preserve claims. And there will be a notice or something going
7 out to the extent necessary to just recognize that no answer is
8 expected.

9 I think the concern was, given that the plan had been
10 long to amend after the issues started to come to light to
11 amend that complaint, or petition. And then after things came
12 up, to simply make sure it was clear on the record that there
13 are claims and issues relating to that.

14 And there's obviously no intent. It's more of just a
15 case the clock is ticking on claims or anything else just in
16 case. But there will be a notice. Again, I'm not diving into
17 whether there was or was not. I think the issue of the timing
18 of it. It's more of just simply preserving it and making sure
19 the record is clear that especially in light of the November
20 17th ruling in that case, right, that there is a basis, a good
21 faith basis to pursue Goodman on that front, and since they're
22 using that as a basis to say that we don't have standing here.

23 As to the other issues too, I do want to make clear
24 James Goodman has not produced a single document in the state
25 court case, not a single document. As to debtor, there is real

1 discovery disputes as to whether or not they produced all
2 that's required or relevant. And in fact, an issue that's why
3 it's warranted here to get a production is because in the state
4 court case they served separate discovery on Goodman vs. GNET.
5 But the documents they got back were company defendants
6 documents.

7 So it's not clear if they're debtor documents, right?
8 And in this case, that narrows the issue. If the document was
9 produced by the debtor, it narrows what you have to ask
10 questions on because it's a debtor-owned document. Right?

11 But if they're going to say it's a GNET-owned
12 document, we have trouble there and it's going to cause a
13 myriad of issues trying to go forward on December 19th. It
14 could extend out to depositions or if we don't have them for
15 the depositions.

16 This is why we need to have the debtor say these are
17 our documents. We claim ownership of them and we're producing
18 them. As for the meet and confers, we were actually the ones,
19 not to get into it too much, I absolutely believe in meeting
20 and confers. In fact, if we didn't attach the email chain,
21 maybe it's there, I was the one who insisted in not doing the
22 little pocket email where it says you consent to us filing
23 this. It's the no, we really need to get on the phone and talk
24 this out.

25 I think a complication as to the topics for James

1 Goodman, for example, has been that it was the holiday, right?
2 So we got these late Wednesday and it was the Thanksgiving
3 holiday and we didn't have a chance to connect yet.

4 The other issue is I think we're generally agreeable
5 to topics. The problem we have is we cannot tie our hands yet
6 in advance because the rules don't require you to, to say hey,
7 we keep --

8 THE COURT: Let me stop you right there. What the
9 rules require you to do and what you can agree to are two
10 completely and utterly different things, okay? That is what a
11 meet and confer is about. Everybody knows what the rules say.
12 The question is: what can you agree to?

13 And so if you can't agree, then I will rule. And no
14 one will like the result, and maybe that will make each party
15 happy. But again, the answer "we don't have to" does not mean
16 "we cannot do so." Those are two totally different questions.

17 MS. SIXKILLER: Your Honor, I apologize for that. I
18 did not mean that to come across as my tone. My main thing was
19 in negotiating with them is we'll generally agree to the topics
20 for James Goodman. And in fact, we flagged for them that the
21 topics were going to build off of our RFPs, and that the key is
22 we also though want to preserve the right to follow up on
23 questions asked by FedEx and the original petitioning
24 creditors, right, in case there's something triggered that they
25 didn't chase down.

1 And I'm happy to continue to meet and confer with
2 James Goodman's counsel on this today to see what we can draw
3 up. The deposition's tomorrow. I generally believe that there
4 is -- we try to avoid bringing discovery disputes to court,
5 pardon me for that, as much as possible.

6 I think that this issue as to the documents again, we
7 have not heard James Goodman say -- he doesn't have ownership
8 of his company email accounts is my expectation. My
9 expectation is likely for an individual for these five RFPs, he
10 probably has a Gmail account or something else that's
11 relatively easy.

12 And we offered search terms, by the way. We did say
13 this, which is why again Mr. Goodman hasn't challenged the RFPs
14 all the way. Yet we're working with -- they're not saying
15 they're completely irrelevant, right? We're working with them
16 on scope and lowering the burden for him.

17 But if he just has to search for a document within
18 his Hotmail or Gmail or Yahoo! account, right, he's likely not
19 to have too much individually in his individual capacity to
20 produce. And then also you'll notice on the time as to the
21 communications, it is date ltd. It's October 1, 2019 to
22 present.

23 I think there was some statements today about how
24 long he's been involved with the company in his current role.
25 So it does cover approximately three-year period. But again,

1 we're talking about a personal email account where it's not
2 expected to get much in the way of volume. And you haven't
3 heard that yet, right? So that's why we'd like to continue to
4 work with them, provide search terms that can be run through
5 the whatever version of personal email account Mr. Goodman has.

6 As to the debtor, the documents there and the topics
7 generally follow very narrow issues where they can easily
8 locate whether, and they should know, right, whether they have
9 drafts or signed versions of the assignment for example.

10 And then the same with the topics for the deposition,
11 Your Honor. A lot of them are talking about the nature of the
12 relationship, right, between certain entities which they should
13 know. That's not something that needs to be studied up.
14 You've heard about it today.

15 We just need it under oath, right? We need to hear
16 these statements being discussed. Some are about policies and
17 practices. Again, easily able to find documents, and they can
18 bring that to the deposition or provide it in advance. So
19 they're not getting into, for example we didn't do a 30(b)(6)
20 on all communications, right, something over broad. These are
21 very narrowed and something that should already be known by one
22 or more of the representatives that they've designated to
23 testify on these topics.

24 THE COURT: So one question. I mean again, I don't
25 know that the topics are necessarily overly broad in terms of

1 the RFPs. The production in one week is just, I mean, that's
2 just troublesome. Right? I mean, how can he be expected to
3 produce these by tomorrow?

4 MS. SIXKILLER: And we offered more time, Your Honor.
5 We simply put that date as a starting point and then offered
6 even a rolling production. And we're fine with moving the date
7 out. That has never been a contention with us, Your Honor.

8 We have said we picked a date. It's tough to pick a
9 date, but we have depositions. To the extent they have --

10 THE COURT: So you're willing to --

11 MS. SIXKILLER: -- these documents at their
12 fingertips --

13 THE COURT: Are you willing to accept the documents
14 after the deposition is what you're saying? Or you're willing
15 to --

16 MS. SIXKILLER: We are if we have to --

17 THE COURT: -- move the deposition.

18 MS. SIXKILLER: We'd like -- I don't think we can
19 move the deposition given that the order, scheduling order says
20 December 2nd for depositions --

21 THE COURT: Okay.

22 MS. SIXKILLER: -- to conclude. And then the hearing
23 on the 19th. But we're willing to work within the parameters
24 of whatever the date to get stuff done by the 19th. And we are
25 willing to get documents after the deposition. Our main thing

1 is just sort of like you were talking about cooperation of
2 counsel. We could say one, two, three we can prioritize
3 because those are easy to find or not find.

4 But yeah, things by tomorrow, again, we're willing to
5 be flexible. We already hence by James Goodman who's being
6 deposed tomorrow, we know we're not going to have his documents
7 by tomorrow, right? So we already told him we'd give more
8 time. We've offered it to debtor as well, and we're willing to
9 work within the bounds of what the Court allows.

10 And again, this is what happens when you have a quick
11 evidentiary hearing, right? You can't always get your docs
12 before your deposition. And I understand that. So we are
13 simply trying to get them out as quickly as we can and then
14 work with the parties on the scope and nature to avoid bringing
15 the dispute to you.

16 But we were told that they insisted on having it teed
17 up. And we understand that too, so the parties could have some
18 clarity.

19 THE COURT: All right. Is there anything else on
20 that, on the issues of the motions to quash, Mr. Kleinsasser,
21 Mr. Parham?

22 MR. PARHAM: Nothing from me, Your Honor.

23 MR. KLEINSASSER: No, Your Honor.

24 THE COURT: All right. The Court's going to take a
25 recess, and I'll come back and I'll rule on that. But why

1 don't we roll into the status conference with respect to
2 discovery issues, thus if there's anything that I need to
3 consider at that time, I'll do so in the same recess for
4 efficiency purposes.

5 Mr. Parham?

6 MR. PARHAM: Yeah. Your Honor, counsel for FedEx
7 asked for a status conference this morning. And we're in the
8 process of working through -- they had some questions about
9 certain kinds of documents. We've been working with them to
10 try and finish that up. Like I said, I hope that it's finished
11 up today.

12 They said their answers -- they haven't given us
13 discovery responses either. And I think there's a
14 misunderstanding on the dates because they told me this morning
15 it was due on the 30th. I went back and looked, and no, it was
16 due on the 23rd which is what the stipulation agreed to.

17 So we're both running a little bit late here. But
18 under the circumstances, I think everyone's doing the best they
19 can, and I think everyone worked hard over the Thanksgiving
20 holidays trying to get that part of it done.

21 We have I think -- I think that we've concluded with
22 the petitioning creditors, the bond holders in terms of the
23 documents that they wanted. So I think that one is finally --
24 has finally concluded.

25 There are, as the Court has heard, a number of

1 depositions scheduled for this week. I think our brief, as I
2 understand it, is due today. Well, not as I understand it. It
3 is due today. And that will be filed tonight. And so we'll
4 have that done. And then the other parties' briefs I think are
5 due in a week or so and we have the hearing on the 19th.

6 So as far as I know, I mean, that's the status of the
7 case. I don't think that there -- to my knowledge, there are
8 no issues, no additional issues that we would need the Court to
9 rule on today or that are ripe. There have been no motions to
10 compel or anything of that nature.

11 THE COURT: Let me take a moment with you,
12 Mr. Parham.

13 MR. PARHAM: Uh-huh.

14 THE COURT: I'm looking at the scheduling order,
15 unless I'm looking at a different version. It says the debtor
16 shall file any brief in support of its objection no later than
17 December 5th.

18 MR. PARHAM: Yeah. So --

19 THE COURT: Was there --

20 MR. PARHAM: Let me explain. There are two
21 scheduling orders.

22 THE COURT: Okay. Oh, okay.

23 MR. PARHAM: We did a scheduling order with the
24 petitioning creditors back when that was done.

25 THE COURT: This is FedEx only. I see that now.

1 MR. PARHAM: When FedEx filed theirs, and I think --
2 and so when FedEx filed their discovery, they wanted, because
3 time was shortened, they wanted us to have a scheduling order
4 in place so there would be some court authorized cutoff dates.

5 THE COURT: Fair enough.

6 MR. PARHAM: And so we agreed to one with FedEx. And
7 so that is why there's confusion. Technically yes, we have
8 another week I think to brief with respect to FedEx. And we
9 might or might not take that. But anyway, so that's why
10 there's two orders.

11 THE COURT: I appreciate the distinction. All right.
12 And so with respect to the discovery issues, is there any open
13 issues that you guys need the Court to address?

14 MR. PARHAM: Not that I'm aware of. I mean --

15 THE COURT: Oh, okay.

16 MR. PARHAM: Like I said, we've been talking with
17 FedEx. And there are open issues, but it's all stuff that
18 we're trying to get responses to them on. Like I said, I got
19 some of those questions at, like, ten o'clock this morning
20 where they had some and we need to respond, and there are some
21 answers to some of the questions they raised. But I just --

22 THE COURT: Mr. Hillyer?

23 UNIDENTIFIED SPEAKER: Your Honor, if I may?

24 MR. HILLYER: Yes. Thank you, Your Honor. Good
25 afternoon. I'll say as an initial matter I did not speak up

1 earlier when to the extent that I heard the name FedEx a whole
2 lot in that motion to quash argument but chose to abstain.

3 To the extent that Mr. Parham or anyone else made
4 factual or legal representations or misrepresentations about
5 FedEx's joinder and claim and assignments, we are not a party
6 to that. And, Your Honor, I'm just asking you to just
7 disregard that to the extent that it's a merit-based argument.

8 As to the issue, I believe I'll start with Mr. Parham
9 just said that the 23rd, that's not correct. We served
10 discovery on November 10th to the debtor. They served
11 discovery to us a week later after I asked for this original
12 scheduling order on the 10th.

13 They had to respond in fully on the 23rd. We have to
14 the 30th. We gave each other the exact same time period. And
15 we gave the briefing deadline. But to the extent that we just
16 entered this order last week, and it's already shot because the
17 debtor on November 23rd provided their request for admission
18 responses, no interrogatories and we still don't have any
19 interrogatories as of right now at the hearing.

20 And we received approximately 839 pages of documents
21 which I spent the most of the Thanksgiving weekend going
22 through, and 201 pages of it is repetitive contracts three
23 times. But the real issue as it relates to the debtor, and we
24 have issues also I can tell you about the rest of this week is
25 very tenuous.

1 The problem that we have with the debtor is
2 Mr. Parham is representing the alleged debtor. Mr. Parham is
3 representing a third-party subpoena GNET ATC which for the
4 purposes of discovery they're not making a distinction between
5 the two parties, but they are in every other pleading
6 representing the largest non-audited financial consulting firm
7 in the nation for the website CFGI. And Mr. Parham is counsel
8 for them.

9 And Mr. Parham is counsel for John Goodman
10 individually who owns the parent -- who owns the alleged debtor
11 which is the 100 percent parent of GNET. So to the extent that
12 I appreciate everything that Mr. Parham is doing, and we have
13 been very cordial, and Ms. Taveras as well.

14 The problem why they are stretched thin is they're
15 replying to three subpoenas and a debtor. And to the extent I
16 heard it in the discovery earlier, if we get 800 pages which is
17 really 600, it is wholly deficient in the relevant time period
18 and will be a motion to compel coming.

19 But to the extent that there is -- that is all the
20 documents you're going to get from four different -- three
21 subpoenas and a request for production is not tolerable.
22 There's no way FedEx can look at those documents and do that.
23 And if Your Honor will indulge me, Mr. Parham said the burden
24 is time.

25 And I'm one, I do not like surprising the Court. I

1 think Your Honor said that you loathe discovery disputes. I
2 think I've heard that a million times. But --

3 THE COURT: That might have been a strong word.

4 MR. HILLYER: -- right now we've got -- well, Your
5 Honor, it's important to note what this week entails so that we
6 know the context of whether it's compelling production from the
7 debtor if it is forthcoming or it's not forthcoming from the
8 GNET from that. We may have up to eight different motions to
9 compel coming, including requests for admission to the extent
10 that I will not get off in the weeds and merit-based.

11 But Your Honor asked Mr. Parham at the November 2nd
12 hearing on the 1003(b) motion is there a written assignment.
13 Our first request for admission is does Goodman Networks have a
14 written consent to assignment. And the answer is as of
15 Thanksgiving, without waiving the subject to general
16 objections, a review of Goodman's documents is ongoing and
17 Goodman is not currently able to admit or deny this request,
18 and therefore denies this request.

19 This is my problem. We're no further along than we
20 were on November 2nd. And we have six subpoenas set this week
21 with Mr. Goodman. And I like giving compliments when I can.
22 Mr. Kleinsasser has been very nice to deal with on behalf of
23 Mr. James Goodman who is the first that. And he has been also
24 a conduit.

25 But Mr. Goodman is the owner of the parent company,

1 is the manager of Genesis Networks Enterprises. And that
2 company wholly owns the Genesis which is the party that is the
3 assigner, what Your Honor is asking about all the issues of the
4 APA. We served -- Mr. Kleinsasser was not allowed to accept
5 service on behalf of Mr. Goodman who is the registered agent
6 for Genesis.

7 We served them anyway. We do not have a single law
8 firm despite Genesis having counsel in the Wistron case that
9 Your Honor looked at the order, we have no counsel. We've been
10 informed of a name but not confirmed for a 30(b)(6). And we
11 have absolutely no documents from Genesis for a deposition
12 we're supposed to do tomorrow morning.

13 So it's not happening. That's going to be a motion
14 to compel, a motion for contempt under 47 -- I mean 45(g), and
15 to reset that. But then we also don't have documents from CGFI
16 on Wednesday. We have no documents from John Goodman on 12/1.
17 We have no documents from GNET on 12/1. And I don't know if
18 we're getting documents from Mr. Frinzi for his 12/2
19 deposition.

20 So with all of that, while I am now out of breath, we
21 could have eight motions because this week can we do
22 depositions without documents? We've discussed that. But the
23 sheer fact that this is all based on an assignment from 2019,
24 and we do not have a single document or communication other
25 than the assignments themselves from 2019 from any party, from

1 either James Goodman who signed on behalf of Genesis to his
2 brother, John Goodman, and then John Goodman who signs both
3 counter parties from Goodman to GNET.

4 Your Honor, I am not about to say it's concerted, but
5 we're not getting any movement at all. So this week may end up
6 being folly. And for the purposes of a status conference
7 versus a motion which is not pending, I think we need to talk
8 about the scheduling order because our scheduling order held
9 for all of two days.

10 And we have these briefings come, and a lot of these
11 depositions are going to be called. The deponent's going to be
12 asked if they did a search and produce documents, and they
13 didn't. Then we may ask them questions and we'll continue the
14 deposition until we get their documents because we have an \$83
15 million claim, Your Honor, FedEx does. And we're entitled to
16 discovery in a contested matter of that magnitude if they're
17 going to object to it.

18 And it's just not really being addressed in a timely
19 manner, not for fault of the burden of time. I'm not saying
20 they are intentionally disregarding it, but it's not getting
21 done. And FedEx is being prejudiced right now.

22 THE COURT: All right. Thank you very much,
23 Mr. Hillyer.

24 I just want to note for the record I never said it
25 couldn't get worse because apparently it can. Oh, goodness.

1 All right.

2 Mr. Guffy, come on in. What does the petitioning
3 creditor have to say?

4 MR. GUFFY: Fortunately, Your Honor, I don't have a
5 lot to add today. What Mr. Parham said with regard to the
6 discovery produced to the note holder petitioning creditors is
7 generally accurate. There are a few minor outstanding issues
8 that we've been working through. I think I'm still owed a few
9 follow up documents.

10 But we are largely complete with respect to the
11 document discovery that we have. I think the main thing that I
12 don't have that I would really like to have in relatively short
13 order is a list from Mr. Parham as to which witnesses will be
14 addressing which 30(b)(6) topics at the deposition.

15 As I think you can imagine, it's a little hard to
16 prepare for depositions if you don't know who you're going to
17 be asking which questions to. And so fortunately, that's about
18 it for us.

19 THE COURT: Right, because as I understand it,
20 Mr. Guffy, there's obviously a separate eligibility issue with
21 respect to your clients. But your clients don't have any
22 factual touch to the assignment issues and the consent issues
23 that ARRIS and/or FedEx do?

24 MR. PARHAM: That is correct.

25 THE COURT: Okay. Thank you, Mr. Parham. And is

1 that -- do you agree with that?

2 MR. GUFFY: That's correct, yes.

3 THE COURT: Okay, thank you. Well --

4 MR. PARHAM: Well, Your Honor, with respect to
5 Mr. Hillyer's comments, first of all, the documents production
6 that they're getting, and it's been a rolling production and I
7 don't understand. Like I said, they're going to get documents
8 that clear up most of this today. But the CFGI, they're our
9 financial advisor. And so yeah, we're going to defend our
10 financial advisor in a lawsuit involving the company. I mean,
11 so that's because it's those issues.

12 And their documents, they basically did the
13 production along with our consultant. And basically it's GNET,
14 it's Goodman, it's CFGI, all those records. They've gotten
15 what those parties have, or they will have what those parties
16 have. So that is taken care of I think today, hopefully.

17 And I think the other issues that he raised, it's not
18 consistent. I didn't do the discovery, I didn't come here to
19 do a discovery conference. And we have nothing in writing to
20 respond to. So I'm a little bit at a loss. I apologize for
21 that.

22 But all I can say is we've -- I know we're working
23 very hard. And we've got a new discovery group that has taken
24 downloads. So, look, there's one consultant left for all these
25 companies. And they have to go back in, find somebody who can

1 get into the emails.

2 They drop all the emails and whatnot, all the
3 documents into our discovery. They have to do their sort. I
4 understand that with respect to FedEx's for example, we had a
5 universe of something like 100,000 documents that then got cut
6 down to 3,000 documents. And now the question is trying to
7 push those out and get them reviewed. And I think we're just
8 going to in essence make sure there's nothing privileged and
9 it's going to all go out.

10 So it's not an easy chore. The issue is narrow. And
11 I think that we've -- but the requests are pretty broad. All
12 communication surrounding it requires a pretty broad search.
13 And for a company that hasn't been in operations for a while,
14 it's not easy.

15 THE COURT: Actually, I mean I guess my question to
16 you there, Mr. Parham, is given that it hasn't been in
17 operations for a while, if the records were maintained, or are
18 you telling me they weren't maintained?

19 MR. PARHAM: I believe they were.

20 THE COURT: Because if the records were maintained,
21 it actually seems like it could be a little easier if there's
22 not been a whole lot of communications within the last few
23 years.

24 MR. PARHAM: Well no, no. They shut down, like, this
25 year.

1 THE COURT: Okay. Oh, okay.

2 MR. PARHAM: So we're dealing with a two or three
3 year period.

4 THE COURT: Oh, okay.

5 MR. PARHAM: I'm sorry. This year or in 2021. But
6 it's not like it's been dormant for --

7 THE COURT: Okay. Just within --

8 MR. PARHAM: -- three years and we're looking --

9 THE COURT: Okay. Within the last year.

10 MR. PARHAM: -- at a period where --

11 THE COURT: Understood.

12 MR. PARHAM: Yeah. That's not true.

13 THE COURT: Well, I guess the question is how
14 realistic are the dates that we've all been discussing. How
15 realistic are these deposition dates, how realistic are the
16 briefing dates, how realistic is the December 19th hearing
17 date?

18 MR. PARHAM: Well, from the debtor's perspective, we
19 would be okay, certainly, with extending that date. And we did
20 raise that, frankly, with the petitioning creditors. And I
21 think we've raised it with FedEx. It would certainly make
22 things easier with ARRIS if we weren't cooperating on trying to
23 produce documents on 9 days as opposed to 30.

24 So as to the depositions, all of them are their
25 request, not ours. So would we work to get -- if they wanted

1 more time to review documents or to get documents or to do that
2 first, I mean, and to change up the deposition schedule, we
3 would be agreeable to that. Like I say, we've broached it and
4 haven't gotten much in the way of takers.

5 THE COURT: So, Mr. Guffy, tell me if this is where
6 you separate from the herd. How realistic is the 12/19 hearing
7 date at this juncture, given where we are?

8 MR. GUFFY: From the point of view --

9 THE COURT: If we were to push that particular
10 hearing date, it would also give the Court more time with your
11 summary judgment motion, as well. On which I appreciate your
12 wanting to expedite to two days' notice.

13 MR. GUFFY: Thank you, Your Honor. Right now, I
14 mean, from the view of the petitioning creditors, we would
15 still view the 12/19 date as realistic. Whether under what
16 circumstances we would extend that, I'd have to discuss with my
17 client.

18 THE COURT: Fair enough. Fair enough.

19 All right. I recognize that you need to discuss it
20 with your client, but as you sit here today, are you aware of
21 any magic to having this heard by the 19th?

22 MR. GUFFY: Your Honor, honestly, it's just a matter
23 of wanting to get this done. We filed this petition on
24 September 6th. And we'd like to get that order for relief
25 entered.

1 THE COURT: Okay. Fair enough.

2 MR. HILLYER: Your Honor, if I may?

3 THE COURT: Please.

4 MR. HILLYER: I think where I see this heading is I
5 can't speak high level about ARRIS' claim. I have not had an
6 opportunity to review all of that. I think they are similarly
7 situated, which I think you asked. So as my grandfather did a
8 fruit analogy, I think FedEx and ARRIS are apples, and I think
9 the petitioning creditor may be an orange in the terms of being
10 able to go forward.

11 But I don't know anything magic about the December
12 19th date. But I've spoken with our client. They echo Mr.
13 Guffy's comments about finality, but also bringing in Rule
14 1013(a) on contested petitions and what is, if you look at
15 there's not a ton of involuntary case law out there as Your
16 Honor's aware. But as early as practical time, trying to get
17 it.

18 But I think, and again, this is not a comment towards
19 any particular, certainly not the attorneys. I have grave
20 concerns about what I've heard about the Goodman Networks in
21 conversations with Mr. Parham and in that about this is shut
22 down. There's no one left. I don't know where these documents
23 are.

24 And I feel like I would be remiss if I didn't tell
25 the Court I have no confidence in Goodman Networks document

1 production on date, relevance, or whoever's doing that
2 batching. I'll point the Court to an example and I actually, I
3 had to ask Mr. Guffy the summary judgment you raised filed by
4 the petitioning creditors. That was a CFGI financial
5 presentation from this year for Goodman Networks and all of its
6 affiliated, I've never seen that before. FedEx has never seen
7 that before.

8 And again, the question is when I'm told everybody
9 knew that was out there, I have no idea what the debtor has
10 given to Mr. Guffy and his clients. Frankly, it's too hard to
11 go through our own documents. But that financial presentation
12 is in a deposition, is a key piece of evidence that would be
13 introduced, and to discuss these financial transactions and
14 bank accounts between Goodman Networks and GNET.

15 And that's what I'm worried about. This happened to
16 get filed -- if Mr. Guffy didn't file that, we would do a
17 deposition. I'd never know that this is out there, and that's
18 my grave concern pressing with the time. And we've never --
19 but even more than that, even though it came attached to the
20 petitioning creditors' summary judgment, why wasn't this in the
21 800 or almost 900 documents that the debtor sent us as their
22 initial batch?

23 It should be right on top. We in fact, we don't have
24 a single document or email with CGFI. So that's where I go to
25 you're asking can we go forward with the depositions this week.

1 If the Court instructs that, and we hold with the current
2 scheduling order, FedEx and its counsel will do everything
3 possible to comply with the Court's briefing schedule and
4 deadline.

5 But I feel that it's not going to be thorough. It's
6 not going to be equitable. And it's certainly going to be
7 prejudicial to the extent that documents are simply just not
8 being turned over. And frankly, I have grave concerns about
9 producing a FedEx 30(b)(6) to be questioned on Friday when I
10 don't know what documents they're going to use at that or even
11 question about.

12 So all of these issues and the relationships of the
13 company, I think it warrants really addressing the scheduling
14 order. I just don't want to be the one that proposes I'm going
15 to throw the monkey wrench in there and crush everything.

16 But Mr. Guffy's summary judgment seems to think that
17 if that summary judgment is granted, I believe it renders
18 FedEx's joinder and ARRIS' joinder moot. I believe if the
19 petitioning creditors go forward and they prevail either by
20 summary judgment or at an order for relief hearing on the 19th,
21 it also renders it moot.

22 So there's a lot of things that are in play, and I'm
23 trying to be sensitive of everybody's time and expenses because
24 this is a tremendous amount of money, but no one wants to throw
25 good money after bad at this point.

1 MR. PARHAM: Yeah, so I have a lot of issues with
2 what he just said, particularly with the discovery. But once
3 he gets the documents and once he asks people what efforts were
4 made to go find it, then if there's an issue, then maybe we
5 could have it.

6 But for him to sit here before he has any hard
7 concerns, evidence that there's any problem with the way we
8 went about trying to obtain the documents, I think is wrong.
9 But let me address one other thing.

10 THE COURT: But, Mr. Parham, I want to stop you there
11 because I have a question for you. Do you agree that if the
12 summary judgment motion of the petitioning creditors is
13 granted, and that they are eligible creditors pursuant to 303,
14 then everything with FedEx and everything with Arris is moot as
15 it pertains to the order for relief?

16 MR. PARHAM: Well, let me answer that this way.

17 THE COURT: Okay.

18 MR. PARHAM: The last thing you said is true. If
19 their claims are determined to be qualified --

20 THE COURT: If, yes.

21 MR. PARHAM: -- there's more than three.

22 THE COURT: Right.

23 MR. PARHAM: That's that. We're done.

24 THE COURT: Okay.

25 MR. PARHAM: The motion for summary judgment though

1 is in truth a motion for partial summary judgment.

2 THE COURT: Okay.

3 MR. PARHAM: Because what that motion says is that in
4 looking at whether or not the petitioning creditors are over
5 secured or under secured, the question is whether you look just
6 to their collateral at the debtor, or whether you look to their
7 collateral in total, which would include GNET and Global
8 Multiman or Multiman Global.

9 And there's, like, \$60 million of value at GNET and
10 Multiman Global. There is \$21 million, maybe 27 depending on
11 how you treated certain account receivable, at Goodman. And so
12 -- and the bonds are owed 18.6.

13 So even if the motion for summary judgment is granted
14 which says you don't look at the affiliates, there still is an
15 issue because they may very well contest the value of what the
16 assets are because they're at least -- well, they're -- the
17 problem that we've had is that we've been trying to liquidate
18 them but they're not that liquid.

19 THE COURT: Okay. Okay.

20 MR. PARHAM: And so that's the --

21 THE COURT: I appreciate the distinction. And I
22 candidly have not read the motion for summary judgment at
23 length. So I appreciate that distinction.

24 MR. PARHAM: But I will tell you what could impact
25 this case, and that is you recall you made us send out a list

1 of --

2 THE COURT: Yes.

3 MR. PARHAM: -- notices to creditors. Frankly, if
4 three of them show up on the 12th, and their claims are of a
5 sufficient amount and they're not disputed, then that would --

6 THE COURT: That's the --

7 MR. PARHAM: That would render it all moot. I mean,
8 it would.

9 THE COURT: Right. Okay. And so you were talking to
10 me when I interrupted you about the discovery. And --

11 MR. PARHAM: Yeah. I was actually just going to move
12 into the summary judgment thing because I wanted the Court
13 to --

14 THE COURT: Oh, okay.

15 MR. PARHAM: -- understand that it wouldn't --

16 THE COURT: Appreciate it.

17 MR. PARHAM: -- necessarily because he had made the
18 comment that that would moot it. That's not something, but
19 there may be something else. Frankly, it makes great sense to
20 me to push this off into January and let us work towards
21 getting a more sane schedule here for December and getting this
22 all done, and seeing if -- and too, I mean, the 12th is
23 significant, quite frankly.

24 THE COURT: Well, does anyone else wish to be
25 heard before the Court takes a break?

1 MS. SIXKILLER: Your Honor, briefly for ARRIS, if I
2 may?

3 THE COURT: Please.

4 MS. SIXKILLER: For our position, if FedEx and them
5 do continue the depositions as been said today, as they've
6 said, apples to apples, we would be continuing our deposition
7 to go with them. So if that impacts the Court's ruling on the
8 discovery at all as well. And then to the extent, again, FedEx
9 is asking for things to get moved, we would be following them
10 on that.

11 We obviously would hope this gets resolved by
12 sometime in January. And we would just simply ask that there
13 be, so we can avoid more of these issues I guess going forward,
14 if the hearing date is moved that we set, like, a discovery
15 cutoff date that even if we don't have the depositions
16 scheduled yet, the list of deponents has to be exchanged, the
17 discovery requests have to be out. And that might help the
18 parties going forward use that time.

19 THE COURT: All right. Thank you, Ms. Sixkiller.
20 Mr. Guffy?

21 MR. HILLYER: Your Honor, I --

22 THE COURT: Oh, please, Mr. Hillyer?

23 MR. HILLYER: Oh, I was going to say if I said that,
24 I didn't mean to -- I never know sometimes what I say. I
25 didn't mean to request it be continued. I merely meant to

1 state that under the current circumstances we're living in that
2 these depositions are not going to be completed this week.
3 They're just, that's just using a professional judgment on
4 that.

5 And, like, that's why I brought up the Genesis. I
6 have no idea how counsel is going to call us this afternoon and
7 get a 30(b)(6) prep before tomorrow morning. That's not
8 happening. And then it dominoes the rest.

9 If it gets moved, FedEx is going to comply. But
10 we're not -- we don't want to be the ones requesting an amended
11 scheduling. We'll abide by what the Court says. If I walk
12 that as tightly as I could, Your Honor.

13 THE COURT: Absolutely.

14 MS. SIXKILLER: And ARRIS would follow suit.

15 THE COURT: I completely understand your position.

16 Mr. Guffy, just for sake of my knowledge, do the
17 petitioning creditors have any part in the depositions this week? Or
18 any of these --

19 MR. GUFFY: Yes, Your Honor. We're taking --

20 THE COURT: Okay.

21 MR. GUFFY: Yeah, we're taking depositions every day
22 this week --

23 THE COURT: Okay.

24 MR. GUFFY: -- starting tomorrow. They're kind of --
25 we're kind of taking the lead on most of those, my

1 understanding. We're actively preparing. And we are ready for
2 these depositions to go forward. We are comfortable with the
3 current schedule that we have right now under the circumstances
4 that we have right now.

5 That could change. Anything could happen in the
6 future. But as of right now, we are comfortable going forward
7 with the depositions. We are comfortable keeping the schedule
8 that we have right now.

9 THE COURT: Okay. Thank you, Mr. Guffy.

10 All right. Here's what we're going to do. The
11 Court's going to take a break. I am going to take a break
12 first because obviously I need to go and consider the arguments
13 that were raised with respect to the two motions to quash.

14 Second, I'm going to take a break long enough for
15 parties to be able to contact their clients. For the folks
16 that are here, if you all need separate conference rooms, I
17 think we should hopefully have those available if you need
18 privacy. Hopefully your phones will work in there.

19 And the second thing is I'm going to allow the folks
20 that are on WebEx to contact their clients, as well. Or you
21 can talk with each other because I recognize that at this at
22 this juncture, we have -- the petitioning creditors certainly
23 seem to be further along in terms of discovery.

24 That doesn't surprise me just given, number two, both
25 the legal nature and the narrow nature of the dispute as to

1 eligibility with respect to these creditors. So that doesn't
2 surprise me that they're a little further along and ready to go
3 so to speak.

4 However, given the breadth of and the very nature of
5 the disputes between FedEx and the alleged debtor, and ARRIS
6 and the alleged debtor, when coupled with the December 12th
7 deadline, I'm just -- I'm wondering out loud whether or not the
8 19th makes a lot of sense right now, and whether or not jamming
9 these depositions through in accordance with the order makes a lot of
10 sense.

11 I'm not sure that it is not an inefficient use of
12 everyone's time and energy. And I'm not sure whether or not --
13 again, I mean, the 12th is certainly still a few weeks away,
14 but it's only a few weeks away. And if -- I understand that
15 folks need discovery if they need to go forward. But I'm not
16 sure that the same rules apply if we give it a little bit more
17 time.

18 So on the break, which I'm going to break until 3:45.
19 And on the break I'm going to ask the parties to contact their
20 clients and co-counsel and/or each -- and speak amongst
21 yourselves with respect to just how realistic the 19th is,
22 and/or whether -- I don't want to have two hearings, obviously.

23 I don't want to have a hearing with respect to the
24 petitioning creditors' claims and then, well, if that doesn't
25 work we'll consider all these, the FedExes and the ARRISes of

1 the world. I don't think that makes sense that that can lead
2 to disparate results.

3 But I do believe that we need to do something that
4 makes a little bit more sense in terms of efficiency. And so
5 I'm going to ask the parties to have a little bit more time to
6 talk. Obviously you can email each other and figure out how to
7 make that work.

8 I'm going to propose until 3:45. If the parties need
9 more time, if you could email Ms. Harden. Or if she's not here
10 -- or you could just let her know that you need more time than
11 that. But otherwise, I'll be prepared to come back out at
12 3:45. All right?

13 Does that make sense? Anybody have any questions
14 with respect to the Court's instructions? All right. Thank
15 you very much.

16 THE CLERK: All rise.

17 THE COURT: The Court will stand in recess until
18 3:45.

19 (Recess from 3:16 p.m./Reconvene at 3:50 p.m.)

20 THE CLERK: All rise.

21 THE COURT: Please be seated.

22 Thank you all for your patience. We're going to go
23 back on the record in Case Number 22-31641.

24 Now that we've had an opportunity to take a break and
25 visit with clients or counsel, are there any announcements?

1 MR. PARHAM: Your Honor, I was not able to reach --

2 MR. GUFFY: Your Honor, this is Philip Guffy for the
3 petitioning creditors. The petitioning creditors want this
4 matter to go forward on the schedule that we have. We want the
5 depositions to go forward. We want the hearing date. This has
6 been going on long enough. We're looking for a resolution
7 here.

8 Our proposal would be to go forward with the
9 depositions as scheduled and then if there are any issues that
10 we need to revisit, we'll revisit those on Monday. We
11 understand the dilemma that FedEx faces as far as getting their
12 documents. We'd be fine proceeding on our own at this point.
13 We are ready to go, and we want this to happen.

14 The documents that we've gotten so far show that
15 there have been shenanigans at this debtor, at this entity. We
16 know that the principals of this entity have siphoned off
17 millions of dollars of our collateral. We're worried about
18 that continuing, and we want that to come to an end.

19 So we think the deposition should go forward. We
20 think that we should have this trial on December 19th so that
21 we can put an end to whatever shenanigans may be still going on
22 at this point.

23 The MO of this debtor throughout the entire time that
24 we've been dealing with them has been delay, delay, delay.
25 They said they were going to pay the notes when they matured.

1 They didn't. They asked for more time. That came to nothing.

2 We have been trying to be accommodating, been trying
3 to be reasonable. But at some point, enough is enough. And we
4 need this to come to a resolution. And we would like to stick
5 with the schedule that we have. We have lined up these
6 depositions. We have lined up these witnesses. We've prepared
7 for these depositions. We want them to go forward now so that
8 we can get an order for relief entered as soon as possible and
9 preserve what is left of our collateral at this debtor.

10 THE COURT: Thank you very much, Mr. Guffy. I
11 appreciate your client taking a position.

12 Mr. Parham?

13 MR. PARHAM: Look, we'll go forward and do the best
14 we can, as we have been. Do I think, frankly, that it makes
15 more sense to briefly continue this and put it past the 12th?
16 I do. I think it would make it a more efficient process and
17 would make the discovery more meaningful.

18 But, look, I mean if people want to go forward, we're
19 lined up and ready to go forward. But we're struggling with
20 trying to keep up with all these requests. And, frankly, when
21 we set the 19th, we had the petitioning creditors. And we
22 worked it out and with them the discovery's fine and it's
23 essentially done and we're there.

24 But not -- then we had FedEx and ARRIS join, and so
25 we kind of got slammed towards the end. But this was not

1 something that we had envisioned when we started back in
2 September that we would have essentially two more wholly --
3 really wholly unrelated litigations going on at the same time.

4 So we've kind of gotten slammed that way. But, look,
5 I mean we agreed to this date with them, and if that's what the
6 Court wants to do and thinks is right, then we'll do it.
7 Personally, I think it's more efficient to continue it, and I
8 would prefer to see it continued if you did, say, mid-January
9 something like that. I think it makes a whole lot more sense.
10 But that's my personal view.

11 THE COURT: Thank you very much, Mr. Parham.

12 MR. KLEINSASSER: May I be heard real quick, Your
13 Honor?

14 THE COURT: Of course, Mr. Kleinsasser.

15 MR. KLEINSASSER: The concern I've got, Your Honor,
16 with my client who's a non-party is that if Your Honor orders
17 it to go forward tomorrow, of course, I'll produce him. But
18 initially, when the bondholders had asked for his deposition,
19 we agreed to a five-hour limitation. And then when FedEx asked
20 to join, I said, yeah, and I offered up the seven hours. I
21 said y'all split it up.

22 Now it sounds like ARRIS will be joining. Okay. The
23 concern I've got, though, is what I think is going to happen
24 here, not from the bondholders but potentially from FedEx or
25 ARRIS is there's going to be some -- and I don't mean this

1 critically of anyone, I'm not saying that. But what I think is
2 going to happen is they're going to say, well, we just got this
3 document, we need to recess this deposition or retake it later.

4 And, honestly, that's just -- that's unreasonable for
5 my client. It's not reasonable to ask him to sit for multiple
6 depositions in this case. I mean this is an involuntary
7 proceeding. He's a non-party. I think at the end of the day,
8 it would really make more sense just for probably for a short
9 continuance to allow parties to get the documents that they
10 need, to work together in that respect, and then ultimately to
11 go forward with one deposition of each witness. Otherwise, I
12 just think it's too burdensome.

13 And at the end of the day, with all respect to Mr.
14 Guffy, the statements about whatever the principals did or
15 didn't, that's not evidence. I mean that's not really even
16 appropriate to consider here, I don't think. So fundamentally,
17 my main concern is of course tomorrow I'll produce my client if
18 that's what is ordered.

19 I just -- you know, the agreement that -- between the
20 parties was one day of seven hours, just like Rule 30 requires.
21 And I just -- I'm afraid we're going to be back in here with
22 essentially a motion for more time based on the fact that
23 documents allegedly have not been produced at this point or
24 something like that. And I just think that's -- it's
25 inefficient and burdensome, especially for my client who has to

1 incur significant attorneys' fees every single time we have to
2 prep him or deal with a document issue or whatever.

3 So that's just my two cents. Thank you.

4 THE COURT: Thank you, Mr. Kleinsasser.

5 MR. HILLYER: Good afternoon, Your Honor. Cam
6 Hillyer on behalf of FedEx.

7 We did as Your Honor instructed and spoke with our
8 client. I think this may be one of the instance that everyone
9 that is presenting their view to Your Honor this afternoon has
10 some semblance of correctness through the glasses that they're
11 looking through.

12 FedEx is not trying to obstruct Mr. Guffy or his
13 bondholders. Their issues are completely separate than FedEx's
14 and perhaps ARRIS's. We have major concerns about the pending
15 week that I've already expressed to you.

16 And I do not have a perfect answer of how to
17 reconcile depositions except that I appreciate Mr. Guffy's
18 acknowledgment that it is a lot easier to say they are prepared
19 to go forward because they've gotten all their documents which
20 I would be saying the same thing than FedEx or ARRIS that has
21 no documents.

22 And I also think Mr. Kleinsasser made very reasonable
23 statements which is that multiple sittings, but I can't
24 reconcile them. To the extent that ARRIS needs more time for
25 its documents, FedEx is not prepared to go forward without its

1 documents, then I think we are in a dilemma and I know Your
2 Honor kind of touched on the issue of bifurcation and hesitancy
3 to that. And I understand that, as well.

4 But I do also feel like I need to tell the Court is
5 once the 1003(b) notices went out and FedEx has been contacted,
6 I've actually spoken with counsel, they know the December 12th
7 date. I wish I could take credit for, but when counsel that
8 called me informed me that they did not think that there was
9 authority to set a December 12th joinder deadline pursuant to
10 1003 -- I'm sorry, to 303(c), which says any party may join in
11 the petition before the case is dismissed or the order for
12 relief is entered and that they had all the time that they
13 potentially wanted up until the order was entered but they
14 would try to timely come in.

15 I bring that up only because that December 12th date
16 is going to be important. I don't know again how to look at --

17 THE COURT: It's set for --

18 MR. HILLYER: -- the moving of the date. My client
19 is very concerned, Your Honor, not going forward without the
20 documents and doing this thoroughly and properly but they are
21 also have acknowledged what Mr. Guffy said.

22 And I appreciate what Mr. Kleinsasser said, but if
23 you look at Document 80-1, the Exhibit A, Page 10 of 12, as far
24 as evidence goes, that is the debtor's own financial report
25 from this year, right, the month before the involuntary. And

1 it clearly shows \$83 million of transfers to insiders.

2 And so that is a major concern that FedEx has given
3 the amount of these debts about -- with the lack of
4 restrictions under 303(f) -- I believe it's 303(f) during the
5 gap period and an extended gap period under 1013(a). Whether
6 or not FedEx is contemplating if we need more time to
7 potentially file a 303(g) motion to at least have the status
8 quo maintained because these are all grave concerns.

9 If you move it, there's concerns. If you don't move
10 it, I don't think we're doing it right. And that's all I can
11 basically add. And to the extent I have not gotten a chance to
12 talk with Ms. Sixkiller or Mr. Sullivan, but FedEx would be
13 amenable to unhitching their car from the petitioning creditors
14 and going with ARRIS and moving forward in that discovery since
15 they're similarly situated and we get up to speed and let the
16 petitioning creditors go their way. But again, that will
17 involve multiple depositions.

18 That's all I have to say, Your Honor. Thank you for
19 your time.

20 THE COURT: Thank you, Mr. Hillyer.

21 Ms. Sixkiller, would you like to be heard with
22 respect to the schedule?

23 I think you may be on mute. I'm sorry, I can't see
24 her with my -- thank you, I appreciate that.

25 MS. SIXKILLER: Sorry about that. I had myself on

1 double mute. A safety net.

2 So with respect to James Goodman briefly, I did reach
3 out to counsel. We spoke briefly. He's still considering it,
4 a resolution on the topics. Going with his topics, the topics
5 raised by our RFPS just generally because they might overlap,
6 but ours might be a bit broader, and then follow-up to any
7 questions asked by other creditors at the deposition.

8 So he's still considering that, but hopefully finders
9 crossed, we'll work something out on that front.

10 As to the scheduling, the one issue is we don't -- we
11 reached out to our client and haven't heard from them yet. But
12 we at this point can't agree to uncoupling the two hearings,
13 but we're fine with moving out our deadlines to the extent
14 necessary out to sort of still meet the December 19th hearing
15 meaning instead of filing our brief December 9th, letting us --
16 and having discovery have to conclude on the 2nd, maybe we can
17 go a little bit further and closer and file our brief just a
18 couple of days before the hearing.

19 What we would like to do, though, we would still
20 likely have to attend the depositions of the other witnesses
21 being taken by the original petitioning creditors just because
22 that's the only way to avoid, right, repeating questions. And
23 so our client will have to attend more and it will be a greater
24 expense for them either way.

25 So we at this point understand we'll likely have to

1 move forward without all of the documents we seek. We
2 understand that the one thing we would ask is that the parties
3 and the non-parties prioritize getting us any drafts of the
4 assignment and an executed assignment themselves. That seems
5 to us to be pretty straightforward, something they either know
6 they have or not have relatively quickly based on the
7 representations here on files and such today.

8 I would say those are the critical pieces for us for
9 the depositions. I understand FedEx might be in a different
10 position than us, and I'm not trying to be contrary to them
11 because we do want to sort of follow on to FedEx at the
12 depositions. So what we might end up having to do if we do
13 have to separate them out is we would attend both but probably
14 reserve our questions until after FedEx goes which is the
15 current plan to be within the seven hours, right, to the extent
16 possible total.

17 And then we would just ask that those depositions and
18 the like be completed so that the hearing could still take
19 place as one joint hearing.

20 THE COURT: Okay. Thank you.

21 MR. GUFFY: Your Honor, if I may add one more thing?

22 THE COURT: Thank you, Mr. Guffy. Please go forward.

23 MR. GUFFY: I'm sorry. I didn't hear you, Your
24 Honor.

25 THE COURT: No. Please go forward.

1 MR. GUFFY: Thank you.

2 Our kind of push to get these depositions done as we
3 have them scheduled is also tied in to our briefing deadline
4 which you had set as two weeks prior to the haring date. And I
5 mean I think that's kind of been our hard stop and our reason
6 for pushing to get this stuff done when we did because we need
7 these depositions before we submit our briefing. And then our
8 briefing deadline is set there on December 5th.

9 If we move that deadline, that may give us some more
10 flexibility to push things out a little further and still keep
11 the December 19th hearing date if that is something that Your
12 Honor would consider.

13 THE COURT: Okay. So what --

14 MR. GUFFY: Because ultimately our concern is not so
15 much that --

16 THE COURT: Let me stop you, Mr. Guffy. Tell me
17 again when is your briefing deadline?

18 MR. GUFFY: Right now our briefing deadline is
19 December 5th which is two weeks prior to the hearing. And that
20 has kind of been what's controlled our schedule is that we need
21 those depositions done so we can meet the briefing deadline so
22 we can keep our December 19th hearing date which is ultimately
23 the thing that my clients are most concerned about is getting
24 this resolved as soon as we can get it heard.

25 THE COURT: What --

1 MR. GUFFY: And that December 5th briefing deadline

2 --

3 THE COURT: Is there --

4 MR. GUFFY: Sorry.

5 THE COURT: I'm sorry. Is there a briefing deadline
6 that follows the 5th or are there simultaneous? I'll be honest
7 I don't recall.

8 MR. PARHAM: Your Honor, I believe what we have is --

9 MR. GUFFY: The scheduling order that we agreed with
10 Mr. Parham was that the debtors would file their brief today
11 and then we would have a week with their brief before we file
12 our brief and then we meet Your Honor's request that all
13 briefing be completed two weeks before the hearing.

14 THE COURT: All righty.

15 MR. GUFFY: And so that's been what's been pushing
16 our scheduling is meeting that deadline that you asked us to
17 meet. If the briefing could be completed closer to the 19th
18 and we have -- then that would give us more time to complete
19 depositions and potentially give us -- FedEx and the debtor and
20 ARRIS more time to work out their discovery issues so that they
21 feel comfortable going forward with the depositions.

22 And then we can still have the hearing setting that
23 we have for December 19th and get -- you know, whether we're
24 going to get an order of relief entered or not, that determined
25 as quickly as possible here.

1 MR. PARHAM: Your Honor, there's a second scheduling
2 order I think with FedEx that has our brief due on the 5th and
3 then their brief due on the 12th.

4 THE COURT: Okay.

5 MR. PARHAM: So we kind of have -- whether we would
6 file two briefs or not, I don't know. But if we're going to
7 move the dates, we would prefer to have one date.

8 THE COURT: No. I think that that actually makes
9 perfect sense, Mr. Parham, is that we start working off of one
10 complete scheduling order in terms of these dates.

11 With respect to the dates themselves, I'm actually
12 pleased to hear that there's some flexibility in this that,
13 again, if we were finishing up at the two-week point, then
14 we've got some room to move some briefing deadlines. What I am
15 going to do is I'm going to move the briefing deadline, so the
16 final brief, if that was the -- that was the petitioning
17 creditors had the final brief, right?

18 MR. PARHAM: Correct.

19 THE COURT: Okay.

20 MR. GUFFY: That's correct.

21 THE COURT: We're going to move that deadline, and
22 we'll make it for the petitioning creditors, for FedEx, and for
23 ARRIS. Whoever's got that final deadline, that's going to be
24 the 14th, okay? And the magic to that day is, number one, that
25 gives the Court a little bit of time with the briefs and,

1 number two, it also is two days after the deadline for other
2 creditors to join, okay.

3 And, again, that might be -- as you mentioned, Mr.
4 Parham, that might be a red-letter day, right. If there are
5 other creditors that join. And, with all due respect, Mr.
6 Hillyer, I do believe that the Court may so otherwise determine
7 in conjunction with the 1003. I don't mean to kill the
8 messenger there, but I think that what the Rule states is --
9 let me quote, just because I know everyone doesn't make
10 appearances.

11 It basically says, "The Court shall afford a
12 reasonable opportunity for other creditors to join in the
13 petition," and the Court believes that December 12th is that
14 reasonable opportunity because essentially that's what, maybe
15 five months? Four to five months. I think that's reasonable.

16 In any event, I think I can give the parties that
17 much more flexibility in terms of the briefing schedule.
18 Again, I need some time with the pleadings, I mean, because
19 we're talking about a Monday hearing. So I'm going to need
20 some time with the pleadings. I'm going to keep the summary
21 judgment deadlines the same because those are going to be
22 primarily legal issues, as I understand.

23 Do you need the depositions for the summary judgment,
24 Mr. Guffy?

25 MR. GUFFY: No, Your Honor. That's purely legal

1 issue, and we've submitted our brief. And as far as we're
2 concerned, we're done with that.

3 THE COURT: Okay. So that's good news.

4 So I'm going to leave those the same. I'm going to
5 give you guys more flexibility and space in terms of the
6 hearing two dates after the December 12th day to join, and
7 that's two business days before the hearing. So I think what
8 that will do, I mean it's not a tremendous amount of time, but
9 it is more time. And I honestly believe that the folks should
10 really work it out.

11 I hear what Mr. Hillyer's saying with respect to
12 FedEx and not wishing to go forward without documents. I hear
13 what Mr. Kleinsasser is saying about his clients or any of
14 these parties, to be honest, having to either sit twice or
15 basically run the risk of, well, I'll take your deposition
16 today but I might wind up with more questions. I don't find it
17 efficient. I don't find it cost-effective. And under the
18 circumstances, I think that we can build in that time.

19 So what I'm going to ask the parties to do is to
20 update a single scheduling order. And, again, this is not
21 necessarily for my benefit, it is for yours, that essentially
22 gives that final date to the creditors for December 14th to
23 respond.

24 MR. PARHAM: Can we also have the 14th? I mean, it's
25 not like there's a -- we file a brief and they respond. I

1 mean, I think in this instance, we all know what we're going to
2 say. And I think that the issues are fairly well drawn. So I
3 mean, to my mind, it would be helpful for us to have the same
4 date and get past the 12th.

5 MR. GUFFY: Your Honor, we can't hear Mr. Parham at
6 this point.

7 THE COURT: Yeah, Mr. Parham, could you --

8 MR. PARHAM: Oh, I'm sorry.

9 THE COURT: -- could you approach the podium?

10 MR. GUFFY: If he could get closer to a microphone.

11 MR. PARHAM: I'm sorry.

12 THE COURT: Thank you, Mr. Guffy.

13 MR. PARHAM: I thought that was the live mic. I'm
14 sorry.

15 THE COURT: They are live, but they just don't have
16 the same oompf.

17 MR. PARHAM: Okay. Yeah, I'm sorry, Philip. I
18 thought I was speaking in front of the mic.

19 Yeah, we'd prefer the same date. I don't know that
20 this is -- particularly, since we don't get a reply. I mean
21 it's not like there's a -- we make a point and they dispute it
22 and then we get to reply because we don't get to reply.

23 So I would suggest that everybody's briefs be due on
24 the 14th. I don't think there's any great mystery here about
25 what the issues are going to be.

1 THE COURT: Mr. Guffy?

2 MR. GUFFY: Your Honor, yes.

3 I would respectfully disagree with Mr. Parham on that
4 point. At this point, we don't know what the debtor is going
5 to argue because their position has shifted several times since
6 we filed the petition as to why they think that we're not
7 qualified creditors here. And so we would ask that they file
8 their brief first so we can see what their objection is,
9 actually is, get them on the record saying what it is before we
10 are required to respond to that.

11 Otherwise, we're kind of shooting in the dark as to
12 what the actual basis they contend we're not qualified to file
13 the (indiscernible).

14 THE COURT: All righty.

15 MR. HILLYER: Your Honor, Cam Hillyer for FedEx. I
16 agree with Mr. Guffy about that. It basically said a reply
17 brief, and so I would respectfully -- the dates don't have to
18 be that longer, but we need to look at that first if it's
19 going to be called a reply brief or both sides may be briefing
20 completely different issues and arguing two different things
21 and then they have to be reconciled at a hearing or
22 supplemental brief which Your Honor doesn't want.

23 And may I ask, Your Honor? You said the motion for
24 summary deadline stays the same. We don't have a motion for
25 summary deadline in our scheduling order. What is that date?

1 THE COURT: Okay. So the motion for summary judgment
2 -- there was a motion for partial summary judgment filed by the
3 petitioning creditors I want to say last Wednesday. And --

4 MR. HILLYER: Yes, Your Honor. I'm aware of that. I
5 just meant do we have a deadline for summary judgment if we --

6 THE COURT: No. There's --

7 MR. HILLYER: Does FedEx if we're --

8 THE COURT: Well, there's no deadline, but there's
9 also no -- I mean we're running preciously short on time before
10 -- between now and the 19th. I mean I'll be honest, I was
11 surprised to see a motion for summary judgment filed prior to
12 the 19th. I now understand it's a different legal issue than
13 that which I -- than I thought. So we would still have the
14 hearing on the 19th.

15 So summary judgments are usually done with very
16 extensive notice and timing. So, no, there is no timing in
17 your scheduling order because I don't really anticipate one
18 between -- we're already less than 30 days out. I think folks
19 should really be prepared to try this case on the 19th.

20 MR. HILLYER: Understood, Your Honor.

21 MR. GUFFY: I believe the deadline Your Honor was
22 referring to was the December 7th deadline for the debtor to
23 file their response to our motion for partial summary judgment.

24 THE COURT: Yes. So here's what I'm going to do.
25 The deadline for the creditors to file their briefs in support

1 of eligibility towards an involuntary petition is going to be
2 the 14th. I'm going to make the debtor's deadline to file
3 their papers, it will be the 9th with respect to the
4 involuntary petition. And it will be the 7th with respect to
5 summary judgment. I'd like a little bit of time with that one.

6 MR. PARHAM: That's fine.

7 THE COURT: All righty. So let me write that down as
8 I'm just giving out dates because Ms. Harden's going to ask me
9 these dates later.

10 (Pause)

11 THE COURT: All righty. So I think with that, the
12 parties could probably agree on some more reasonable deposition
13 dates. I think that as much as I do understand folks have
14 prepped for these depositions and what so, I think just giving that
15 extra week of time probably makes a lot more sense because I
16 would like these various parties, BFA, the alleged debtor, as
17 well as the two individual third parties, Mr. James and Mr.
18 John Goodman, to only have to sit once. And I'd like to reduce
19 the amount of disputes that can occur based upon discovery
20 rather than to perpetuate them.

21 Again, if there's going to be a document production
22 today that you hope will allay some of the concerns of at least
23 FedEx so far, I think that's good news. If there's not and
24 there's still a substantial fight, then let's get a motion to
25 compel on file as soon as possible because that way we can get

1 these issues done and expedited and heard before these
2 deposition dates because, you know, I don't want to have the
3 disputes grow and take up all the time.

4 With respect to the ARRIS subpoenas and discovery and
5 the two motions to quash, I'm going to give the parties my
6 ruling which is going to essentially give the parties primarily
7 direction, okay. I don't intend at this juncture to start
8 drafting folks' discovery. And I don't want to stand in the
9 way of parties being productive and conferring. But I do want
10 to give you guys some guardrails to limit the dispute going
11 forward.

12 Generally, what I would say is that I don't disagree
13 with ARRIS that there's no general limiting of a Rule 30 depo.
14 However, there is a limitation in Rule 26(b)(1), and that is
15 the questions must be relevant to any parties' claim or defense
16 and proportional to the needs of the case and whether the
17 burden or the expense of the proposed discovery outweighs its
18 likely benefit.

19 I will not quash the deposition of James Goodman and
20 I likewise do not find that the topics in the RFPs are overly
21 broad. But I am mindful of Mr. Kleinsasser's argument and his
22 concern that these topics which ARRIS's counsel admits are not
23 limiting could certainly meander into questioning more properly
24 saved for state court litigation.

25 To be clear, this is not the state court litigation.

1 ARRIS has already seemingly put its toe on the line if not
2 crossed it as it pertains to the automatic stay and the filing
3 of a second amended complaint. That's not before me today.
4 But there will be no further missteps tolerated.

5 ARRIS's questioning of James Goodman should be
6 narrowly limited to its eligibility as a petitioning creditor.
7 I'm not going to write out the questions for ARRIS, but I'm
8 going to say stay in your lane. This is not the time to
9 litigate the allegations of fraud or the allegations of
10 conspiracy that are found in the complaints. Those claims
11 would certainly be subject to a bona fide dispute. So from
12 that perspective, there's no need to engage in discovery on
13 those topics here.

14 Now, whether the distribution agreement was assigned
15 to GNET, whether ARRIS had notice, whether ARRIS consented or
16 was entitled to consent, whether Goodman relied -- excuse me,
17 whether Goodman remained liable after any purported assignment,
18 how those claims or assets were accounted for by Genesis,
19 Goodman, and GNET pre- and post-transfer, all of that's fair
20 game. All of that goes directly to the eligibility of these
21 creditors, okay.

22 But, again, don't take the Court's ruling as -- I
23 mean this isn't a 2004 and this isn't a -- I mean this isn't
24 the state court litigation. We have very narrow issues coming
25 before us on the 19th and that is what this discovery and these

1 depositions are meant to get to.

2 If the parties have questions, you can ask me now.
3 Otherwise, in terms of further meet and confers or, god forbid,
4 we're at the deposition, you have questions, you can contact
5 the Court and request a further status conference whether we do
6 one on WebEx or whether we do a telephonic one.

7 But that's the Court's feelings with respect to Mr.
8 James Goodman. Again, I'm going to leave the timing to the
9 parties. I believe, again, we need to give ourselves at least
10 minimum another week with these depositions. And I'm going to
11 give Mr. Goodman an additional ten days to respond in good
12 faith with respect to the discovery that's been propounded.
13 All righty?

14 With respect to the motion to quash the depositions
15 of John Goodman and GNET, that motion to quash is going to be
16 denied. If those persons or entities wish to oppose the
17 discovery, the Court would have expected them to retain counsel
18 and appear. However, again, to ARRIS, that's not a blank
19 check, okay. The same rules apply like the guardrails that I
20 talked about with respect to the deposition of Mr. Goodman.

21 So long as we're talking about eligibility, so long
22 as we're talking about whether or not a claim exists at the
23 Goodman Networks level and whether or not that claim is
24 contingent, unliquidated, disputed, or subject to bona fide
25 dispute, those issues are fair game. But I don't want the

1 discovery to outsize the actual factual and legal issues, if
2 that makes sense.

3 And I think -- I gather that Mr. Goodman and GNET,
4 they're not as part of the same production as Mr. James
5 Goodman. Is that correct, Mr. Parham?

6 MR. PARHAM: That is correct.

7 THE COURT: Okay. And so how much time do you think
8 they need for their production? Or am I correct that they're
9 already producing?

10 MR. PARHAM: Well, they've been producing.

11 THE CLERK: (Indiscernible).

12 MR. PARHAM: I'm sorry. I keep thinking this --

13 THE COURT: That's okay.

14 MR. PARHAM: They've been producing.

15 THE COURT: Okay.

16 MR. PARHAM: But now we got to go back and we got to
17 look at ARRIS's stuff.

18 THE COURT: Okay.

19 MR. PARHAM: And we got to look -- we got to finish
20 with FedEx. And so if we're going to push the deposition, I'm
21 just trying to think what the calendar's like. I mean I guess
22 you're pushing all the depositions into next week, and so --
23 that are currently scheduled, which is all of them.

24 And then so we would be trying to -- what we would be
25 trying to do is get documents to them by the end of this week

1 is what we would --

2 THE COURT: Sure.

3 MR. PARHAM: -- be the effort we would try to make, I
4 mean. And we'll need to -- we'll probably need to talk at
5 least -- I just need to go back and look at what ARRIS has done
6 and we'll see if we can --

7 THE COURT: Okay.

8 MR. PARHAM: But I appreciate the direction because
9 what I get is all the fraud, all that kind of stuff is out.

10 THE COURT: Yes.

11 MR. PARHAM: Because that's all going to be
12 contested.

13 THE COURT: Yes.

14 MR. PARHAM: You would view that as contested. And
15 so what we're really talking about are the contract issues, in
16 essence.

17 THE COURT: Right.

18 MR. PARHAM: Was there an assignment and that sort of
19 thing.

20 THE COURT: I am assuming that Goodman never had
21 liability on its books that said for fraud to ARRIS.

22 MR. PARHAM: I think that's fair.

23 THE COURT: You think that's probably fair?

24 MR. PARHAM: I think that's fair.

25 THE COURT: Okay.

1 All right. I mean, again, I hope the Court's
2 comments give the parties some direction. Again, in the
3 interest of time, I don't want to stop and write a lengthy
4 ruling on this. If the parties need more direction, I'm happy
5 to give it. But I do believe -- I do hope that with these
6 comments, the parties can confer, number one, and maybe narrow
7 topics which I think would make for a better more productive
8 deposition.

9 And if not, again, I think you at least have the
10 benefits of some early on thoughts if things were to go awry at
11 the depositions themselves.

12 Do the parties have any questions?

13 MR. HILLYER: Your Honor, I do. Cam Hillyer.

14 So am I hearing correctly that will help in my confer
15 and I'm only asking that because we organized along with Mr.
16 Guffy a lot of the court reporters that we're not having
17 depositions this week because, like, tomorrow morning is
18 Genesis and James Goodman.

19 And if that's not happening and Genesis hasn't
20 contacted us, then -- and if Mr. Parham represents he does need
21 more time and understand and they'll have it by the end of the
22 week, I'm just trying to contemplate whether it's best to say
23 it now or forever hold your peace if we enter into a situation
24 with like CGFI on Wednesday and Mr. Guffy says I'm ready to go
25 forward and I say I'm not ready to go forward. And it's kind

1 of like a multi-member LLC, unanimous consent before the depo
2 is set, that's what I'm kind of hearing the counsel.

3 But I need to let all of those people and staff for
4 all of the video conferences, let them know that they're not
5 happening this week. And that's what I'm hearing.

6 THE COURT: Okay. Mr. Parham's approaching the
7 podium.

8 MR. PARHAM: Yeah. I would say I don't know anything
9 about Genesis. So with the exception of Genesis, I think we
10 should just agree that all the depositions are off for this
11 week and that counsel, it's -- you know, I guess you're still
12 in Central Time, it's 4:30.

13 But maybe counsel should meet and confer tomorrow
14 morning and get -- if people are available and get a schedule
15 for next week so that we don't get into the very situation that
16 counsel discussed where somebody's ready to go forward and
17 someone else isn't and people putting up the deponent don't
18 know what day it's going to be or is it going to go forward or
19 is it not.

20 And so I would say that we should just have a blanket
21 everything is off this week in terms of depositions. We'll
22 work on getting documents to people, getting all that squared
23 away. And hopefully, counsel can confer if not in the morning,
24 tomorrow certainly, and get dates for everybody for -- to go
25 forward next week.

1 THE COURT: Okay. So I --

2 MR. GUFFY: Your Honor, if I may?

3 THE COURT: Please.

4 MR. GUFFY: So understanding that, you know, probably
5 depositions tomorrow not happening, to the extent that we have
6 agreement among all the parties that certain depositions could
7 go forward this week, I don't necessarily want anything to
8 prevent us from doing that.

9 Like, say, for example, if at least for some
10 deponents, both FedEx and ARRIS feel comfortable moving forward
11 on, say, Thursday or Friday with certain deponents, that we
12 could do that if there was agreement on the parties to do so.

13 THE COURT: I am not going to stand at all in the way
14 of parties unanimous agreement, but I agree with Mr. Hillyer
15 that you have now entered into an LLC deposition agreement
16 where if folks want to depose the same party, I'd like them to
17 only have to be put up once. And so if that requires them
18 being pushed to either the end of the week or to next week, so
19 be it. I'm hoping that all these folks have the flexibility to
20 do that.

21 But the only thing that I'll caveat is specifically
22 to the Genesis deposition. We haven't talked about today that
23 I'm aware of a deposition of Genesis. Now whether or not that
24 goes forward, I didn't hear that FedEx or -- who issued the
25 deposition notice to Genesis?

1 MR. HILLYER: I did, Your Honor.

2 It was a 30(b)(6) issued to Genesis Telecom. And
3 that is a company that's controlled by James Goodman or is
4 actually the managing member of that is the parent company, and
5 he is the manager of the parent company. And that entity is
6 the assignor of the APA agreement that's the core dispute. And
7 Genesis has no counsel and has not responded to us.

8 And that was the first thing that I brought up which
9 is that in my opinion, tomorrow was off. James Goodman is
10 going to show up for his deposition, but he is not causing his
11 entity to show up for its 30(b)(6) and be held accountable for
12 the answers that he's otherwise going to answer or he has no
13 knowledge. That's a problem, and if we need to address it,
14 we'll -- since a lot of these depositions aren't happening,
15 then we'll file an emergency motion to compel James Goodman to
16 have his entities comply with the subpoena notice.

17 And, like I said, Mr. Kleinsasser has been incredibly
18 helpful in communicating as a conduit, but he doesn't represent
19 Genesis, and so he can't make his client make Genesis appear.
20 And it's an issue. I mean, they are a core party to this.

21 THE COURT: Okay. So --

22 MS. SIXKILLER: And, Your Honor, ARRIS also served a
23 deposition notice on Genesis.

24 THE COURT: All right. So --

25 MS. SIXKILLER: Or noticed it, I guess.

1 THE COURT: -- with respect -- okay. So obviously,
2 no one's here on behalf of Genesis.

3 So with respect to that deposition, I won't -- I'm
4 going to leave it to ARRIS and to FedEx what they want to do
5 with that particular deposition. If you want to push it, push
6 it. If you don't and you want to essentially give the old
7 deposition not held, that's up to counsel. I won't put my
8 thumb kind of in the pie with respect to that one because
9 that's a different issue where there's been no objection, no
10 one's raised issues with respect to that.

11 With respect to the depositions of Mr. John Goodman,
12 with respect to the alleged debtor, with respect to Mr. James
13 Goodman -- let me see if I'm missing anyone.

14 MR. PARHAM: CFGI, Your Honor.

15 THE COURT: Pardon?

16 MR. PARHAM: CFGI.

17 THE COURT: And GNET.

18 MR. PARHAM: CFGI, our financial advisor.

19 THE COURT: Oh, oh, oh, and yes. And with respect to
20 the financial advisor, each of those should be pushed to next
21 week unless the parties agree that they're all prepared to go
22 forward this week. And if everyone's prepared to go forward
23 this week, then godspeed.

24 MR. PARHAM: Your Honor, I would just ask that they
25 let us know so we can let the deponents know.

1 THE COURT: Sure.

2 MR. PARHAM: I mean, because they're either ready or
3 they're -- I assume that was for them.

4 THE COURT: Okay. So Mr. Parham?

5 MR. PARHAM: Yes. I'm sorry.

6 THE COURT: The mic.

7 MR. PARHAM: I'm sorry, once again. I would just
8 like since we're presenting all those people, I would like to
9 know.

10 THE COURT: Right.

11 MR. PARHAM: And so sooner than later so we can let
12 them know.

13 THE COURT: No, no, no. And, again, I mean part of
14 the agreeing to kind of the scheduling order going forward,
15 part of the meet and confer in advance of these depositions and
16 the productions should be just that. But I agree, given that
17 depositions were to be scheduled starting tomorrow, I think
18 that everyone needs to get on the phone right after this ends.

19 MS. SIXKILLER: And, Your Honor, briefly, real quick
20 and to that point, yeah, I think since we all have 9:00 Central
21 open tomorrow on our calendars now, I think we could easily do
22 that.

23 But outside of that, I just want to note for the
24 record that my understanding is too that the motion to quash
25 brought by debtor is also denied but we've been given

1 guardrails, ARRIS has, and we're going to stay within those
2 guardrails.

3 THE COURT: Yes. That's exactly right.

4 MR. GUFFY: And one more thing, Your Honor. Were you
5 asking us to upload a new scheduling order embodying the dates
6 that we discussed for the briefing schedule?

7 THE COURT: Again, if the parties -- I think that it
8 appears to me that the parties like to operate within the
9 bounds of stipulated scheduling orders. I am going to put the
10 dates that we discussed today in there. Again, discovery
11 cutoffs and things like that, that's all subject to the
12 parties.

13 So I'm going to put in my minute entry the deadlines,
14 again, with respect to the briefing on the involuntary
15 petitions and I think if it's not already done so, I'll put in
16 the deadline for the briefing on the MSJ. But that may have
17 been in a notice of hearing. But in any event, it's like I
18 said, given that you're combining a number of different
19 scheduling orders into one, it probably makes sense to get one
20 on file.

21 But, again, with the exception -- my rule of thumb is
22 if you're going to move court dates, if you're going to move
23 when I'm supposed to get documents, the final document deadline
24 before a hearing, I want in on that. Otherwise, the scheduling
25 order can say unless the parties otherwise agree in writing and

1 you can move all those interior dates and especially anything
2 as it pertains to discovery. What I care about is the briefing
3 deadlines which we've already moved, so.

4 All righty?

5 MR. GUFFY: Understood, Your Honor. Thank you.

6 THE COURT: You're very welcome.

7 Anything else?

8 MR. HILLYER: Thank you for all your time this
9 afternoon, Your Honor.

10 THE COURT: You're very welcome.

11 MR. KLEINSASSER: Thank you, Your Honor.

12 MR. PARHAM: Thank you, Your Honor.

13 MR. KLEINSASSER: May we be excused?

14 THE COURT: Yes, you may. You guys have a great day.

15 (Proceedings adjourned at 4:36 p.m.)

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C E R T I F I C A T I O N

I, DIPTI PATEL, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Dipti Patel

DIPTI PATEL, CET-997

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DATE: November 30, 2022